

EXHIBIT A

Confidential - Mathew Thomas, Jr., M.D.

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATHEW THOMAS, JR.,	:	NO.
Plaintiff	:	2:13-CV-03946-CMR
	:	
vs.	:	
	:	
NATIONAL BOARD OF	:	
MEDICAL EXAMINERS and	:	
EDUCATIONAL	:	
COMMISSION FOR	:	
FOREIGN MEDICAL	:	
GRADUATES,	:	
Defendants	:	

- - -

Friday, January 10, 2014

- - -

CONFIDENTIAL

Deposition of MATHEW THOMAS, JR.,
M.D. taken in the Offices of Golkow
Technologies, One Liberty Place, 1650
Market Street, Suite 5150, Philadelphia,
Pennsylvania, on the above date,
commencing at 9:35 a.m. before Lauren A.
Moore, Registered Merit Reporter and
Certified Realtime Reporter.

GOLKOW TECHNOLOGIES, INC.

877.370.3377 ph | 917.591.5672 fax

deps@golkow.com

Confidential - Mathew Thomas, Jr., M.D.

<p style="text-align: center;">Page 2</p> <p>1 APPEARANCES: 2 MATHEW THOMAS, JR. 3 31 Roosevelt Avenue 4 Staten Island, NY 10314 5 dr.mathew.thomas.jr@gmail.com 6 -- Pro Se</p> <p>7 HAMBURG & GOLDEN, P.C. 8 By: MAUREEN P. HOLLAND, ESQUIRE 9 1601 Market Street, Suite 3310 10 Philadelphia, PA 19103 11 215-255-8590 12 hollandmp@hamburg-golden.com 13 -- For the Defendant 14 National Board of 15 Medical Examiners</p> <p>16 MORGAN LEWIS & BOCKIUS, L.L.P. 17 By: ELISA P. McENROE, ESQUIRE 18 1701 Market Street 19 Philadelphia, PA 19103 20 215-963-5917 21 emcenroe@morganlewis.com 22 -- For the Defendant 23 Educational Commission for 24 Foreign Medical Graduates</p>	<p style="text-align: center;">Page 4</p> <p>1 INDEX TO EXHIBITS</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left; vertical-align: bottom;">EXHIBIT</th> <th style="text-align: left; vertical-align: bottom;">DESCRIPTION</th> <th style="text-align: right; vertical-align: bottom;">PAGE</th> <th style="text-align: right; vertical-align: bottom;">REFERENCED</th> </tr> </thead> <tbody> <tr> <td>EXHIBIT 8</td> <td>E-mail from Mathew Thomas, Jr.</td> <td></td> <td></td> </tr> <tr> <td></td> <td>to Susan Deitch, Bates Stamp</td> <td></td> <td></td> </tr> <tr> <td>5</td> <td>NBME 00132 and NBME 00133</td> <td style="text-align: right;">150</td> <td></td> </tr> <tr> <td>6</td> <td>EXHIBIT 9</td> <td></td> <td></td> </tr> <tr> <td></td> <td>E-mail from Mathew Thomas, Jr.</td> <td></td> <td></td> </tr> <tr> <td>7</td> <td>to Susan Deitch, Bates Stamp</td> <td></td> <td></td> </tr> <tr> <td>8</td> <td>NBME 00134 and NBME 00135</td> <td style="text-align: right;">157</td> <td></td> </tr> <tr> <td>9</td> <td>EXHIBIT 10</td> <td></td> <td></td> </tr> <tr> <td></td> <td>E-mail from Susan Deitch to</td> <td></td> <td></td> </tr> <tr> <td>10</td> <td>Mathew Thomas, Jr., Bates Stamp NBME 00159</td> <td></td> <td></td> </tr> <tr> <td></td> <td>9/15/09 Letter from USMLE to</td> <td></td> <td></td> </tr> <tr> <td>11</td> <td>Mathew Thomas, Jr. Bates Stamp</td> <td></td> <td></td> </tr> <tr> <td>12</td> <td>NBME 00199 through NBME 00203</td> <td style="text-align: right;">159</td> <td></td> </tr> <tr> <td>13</td> <td>EXHIBIT 11</td> <td></td> <td></td> </tr> <tr> <td></td> <td>E-mail from Mathew Thomas, Jr.</td> <td></td> <td></td> </tr> <tr> <td>14</td> <td>to Susan Deitch, Bates Stamp</td> <td></td> <td></td> </tr> <tr> <td></td> <td>NBME 00158</td> <td style="text-align: right;">160</td> <td></td> </tr> <tr> <td>15</td> <td>EXHIBIT 12</td> <td></td> <td></td> </tr> <tr> <td></td> <td>E-mail from Susan Deitch to</td> <td></td> <td></td> </tr> <tr> <td>16</td> <td>Mathew Thomas, Jr., Bates Stamp NBME 00156</td> <td style="text-align: right;">161</td> <td></td> </tr> <tr> <td>17</td> <td>EXHIBIT 13</td> <td></td> <td></td> </tr> <tr> <td></td> <td>E-mail from Mathew Thomas, Jr.</td> <td></td> <td></td> </tr> <tr> <td>18</td> <td>to Susan Deitch, Bates Stamp</td> <td></td> <td></td> </tr> <tr> <td></td> <td>NBME 00136 through NBME 00137</td> <td style="text-align: right;">148</td> <td></td> </tr> <tr> <td>19</td> <td>EXHIBIT 14</td> <td></td> <td></td> </tr> <tr> <td></td> <td>FedEx Shipment E-mail</td> <td></td> <td></td> </tr> <tr> <td>20</td> <td>Confirmation, Bates Stamp</td> <td></td> <td></td> </tr> <tr> <td></td> <td>NBME 00153</td> <td style="text-align: right;">162</td> <td></td> </tr> <tr> <td>21</td> <td>EXHIBIT 15</td> <td></td> <td></td> </tr> <tr> <td></td> <td>E-mail from Mathew Thomas, Jr.</td> <td></td> <td></td> </tr> <tr> <td>22</td> <td>to Susan Deitch, Bates Stamp</td> <td></td> <td></td> </tr> <tr> <td></td> <td>NBME 00138 through NBME 00139</td> <td style="text-align: right;">162</td> <td></td> </tr> <tr> <td>23</td> <td>EXHIBIT 16</td> <td></td> <td></td> </tr> <tr> <td></td> <td>E-mail from Susan Deitch to</td> <td></td> <td></td> </tr> <tr> <td>24</td> <td>Mathew Thomas, Jr., Bates Stamp NBME 00150 through</td> <td></td> <td></td> </tr> <tr> <td></td> <td>NBME 00151</td> <td style="text-align: right;">148</td> <td></td> </tr> </tbody> </table>	EXHIBIT	DESCRIPTION	PAGE	REFERENCED	EXHIBIT 8	E-mail from Mathew Thomas, Jr.				to Susan Deitch, Bates Stamp			5	NBME 00132 and NBME 00133	150		6	EXHIBIT 9				E-mail from Mathew Thomas, Jr.			7	to Susan Deitch, Bates Stamp			8	NBME 00134 and NBME 00135	157		9	EXHIBIT 10				E-mail from Susan Deitch to			10	Mathew Thomas, Jr., Bates Stamp NBME 00159				9/15/09 Letter from USMLE to			11	Mathew Thomas, Jr. Bates Stamp			12	NBME 00199 through NBME 00203	159		13	EXHIBIT 11				E-mail from Mathew Thomas, Jr.			14	to Susan Deitch, Bates Stamp				NBME 00158	160		15	EXHIBIT 12				E-mail from Susan Deitch to			16	Mathew Thomas, Jr., Bates Stamp NBME 00156	161		17	EXHIBIT 13				E-mail from Mathew Thomas, Jr.			18	to Susan Deitch, Bates Stamp				NBME 00136 through NBME 00137	148		19	EXHIBIT 14				FedEx Shipment E-mail			20	Confirmation, Bates Stamp				NBME 00153	162		21	EXHIBIT 15				E-mail from Mathew Thomas, Jr.			22	to Susan Deitch, Bates Stamp				NBME 00138 through NBME 00139	162		23	EXHIBIT 16				E-mail from Susan Deitch to			24	Mathew Thomas, Jr., Bates Stamp NBME 00150 through				NBME 00151	148																													
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EXHIBIT	DESCRIPTION	MARKED	
EXHIBIT 57	Documents with regard to Request for Documents from Amended Notice of Deposition Numbers 1 through 13	147	represented by counsel. Is that correct?
EXHIBIT 58	ECFMG Medical Education Credential Committee Meeting - Exception Requests, Bates Stamp ECFMG 000627 through ECFMG 000646	236	A. That's correct. Q. And have you ever been deposed before? A. Yes, I have. Q. About how long ago was that? A. I actually had a deposition about a little over a month ago.
EXHIBIT 59	E-mail from Rebecca Robichaud to Bill Kelly, Bates Stamp ECFMG 000607 through ECFMG 000609	247	Q. So I won't go through all the rules in excruciating detail, but, basically, at a deposition it's important that one person speak at a time so that the court reporter who is here can take down everything everyone is saying.
EXHIBIT 60	Letter from ECFMG dated 5/1/13, Bates Stamp ECFMG 000613 through ECFMG 000614	252	It's also important to give audible verbal responses to questions, so instead of nodding, make sure to say the word yes or instead of shaking your head, make sure to say the word no.
EXHIBIT 61	Letter from ECFMG dated 4/25/13, Bates Stamp ECFMG 000615	254	A. Okay.
EXHIBIT 62	USMLE and Appeals: The Hefty Burden Examinees Face in Appealing a USMLE Finding of Indeterminate Score or Irregular Behavior	293	Q. If you have any questions about any of the questions that are asked to you, if any of the questions seem unclear, just simply ask for

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MATHEW THOMAS, JR., M.D., after having been duly sworn, was examined and testified as follows:			clarification on that question, and we'll be happy to clarify the question for you.
*****			A. Okay.
EXAMINATION			Q. And it's perfectly fine to take breaks during the deposition. Just let us know if you'd like to take a break before our next question. In other words, while a question is pending we don't want to say, all right. Let's take a ten-minute break.
BY MS. HOLLAND:			Do you understand everything I said so far?
Q. Dr. Thomas, can you introduce yourself for the record using your first name and last name?			A. I do.
A. My name is Mathew Thomas, M-A-T-H-E-W, Thomas, T-H-O-M-A-S.			Q. And are you on any medications that impair your memory, speech or ability to concentrate today?
MS. HOLLAND: And, for the record, my name is Maureen Holland, H-O-L-L-A-N-D, and I'm here representing the National Board of Medical Examiners.			A. No.
MS. McENROE: And I'm Elisa McEnroe, M-C-E-N-R-O-E, here on behalf of the Educational Commission for Foreign Medical Graduates.			Q. Is there any other reason why you can't give truthful, accurate and complete testimony today?
BY MS. HOLLAND:			A. I did have one trauma Sunday, slip and fall, hit my head, but I don't think it will affect.
Q. Now, Dr. Thomas, I understand that you are not currently			Q. Are you on any medications

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<p>1 for the slip and fall?</p> <p>2 A. No.</p> <p>3 Q. And you do understand that</p> <p>4 you are under oath currently?</p> <p>5 A. I do.</p> <p>6 Q. And you understand your</p> <p>7 obligation to tell the truth --</p> <p>8 A. I do.</p> <p>9 Q. -- today in your deposition?</p> <p>10 A. I do.</p> <p>11 Q. So, Dr. Thomas, you are</p> <p>12 appearing here today pursuant to a notice</p> <p>13 of deposition that was sent to you. Is</p> <p>14 that right?</p> <p>15 A. That is correct.</p> <p>16 Q. And in your exhibit book</p> <p>17 that you have in front of you, I'm going</p> <p>18 to ask you to turn to Exhibit 4, and</p> <p>19 you're looking at the amended notice of</p> <p>20 deposition. Is that right?</p> <p>21 A. That is correct.</p> <p>22 Q. And on Exhibit 4 do you see</p> <p>23 a list of items? There are 13 items</p> <p>24 enumerating things that we had asked to</p>	<p>1 take a quick break? Let's go off</p> <p>2 the record.</p> <p>3 (A discussion was held off</p> <p>4 the record.)</p> <p>5 (A short break was taken.)</p> <p>6 BY MS. HOLLAND:</p> <p>7 Q. Dr. Thomas, we took a short</p> <p>8 break so that you could go down to your</p> <p>9 car and retrieve some items. I do want</p> <p>10 to remind you that you're still under</p> <p>11 oath.</p> <p>12 A. I understand.</p> <p>13 Q. I just want to go back to a</p> <p>14 few things. You said that you were</p> <p>15 deposed about a month ago. What was that</p> <p>16 in reference to?</p> <p>17 A. That was for a car accident.</p> <p>18 Q. And are you a plaintiff or a</p> <p>19 defendant in that lawsuit?</p> <p>20 A. I'm the plaintiff in that.</p> <p>21 Q. And where did that car</p> <p>22 accident take place?</p> <p>23 A. New York City. Manhattan.</p> <p>24 Q. Do you know the date?</p>
<p style="text-align: center;">Page 15</p> <p>1 bring with you here today. Is that</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. Did you bring those items</p> <p>5 with you?</p> <p>6 A. I did for most of them, and</p> <p>7 I have a response to those that I do not</p> <p>8 have.</p> <p>9 Q. Let's go through those in</p> <p>10 turn then. So starting with number one,</p> <p>11 the score reports. Did you bring those</p> <p>12 with you today?</p> <p>13 A. I do have, I believe, more</p> <p>14 of a list because I cannot access Oasis,</p> <p>15 and I didn't keep all my score reports.</p> <p>16 I have my score report from my 2000 -- my</p> <p>17 Step 2, the pass.</p> <p>18 Q. Okay.</p> <p>19 A. I think I may have left that</p> <p>20 in my car. I had another binder with</p> <p>21 other score reports in it. I believe</p> <p>22 that's in the car. I'll have to bring</p> <p>23 that back up to you.</p> <p>24 MS. McENROE: How about we</p>	<p style="text-align: center;">Page 17</p> <p>1 A. November 12th, 2007, I</p> <p>2 believe.</p> <p>3 Q. 2007?</p> <p>4 A. I believe so.</p> <p>5 Q. Are you the plaintiff in any</p> <p>6 other lawsuits?</p> <p>7 A. No.</p> <p>8 Q. Have you been in the past?</p> <p>9 A. Once in the past before</p> <p>10 that. It was another car accident.</p> <p>11 Q. And where was that one?</p> <p>12 A. That was in Queens, New</p> <p>13 York.</p> <p>14 Q. And do you remember when</p> <p>15 that was?</p> <p>16 A. It was in 2001, somewhere</p> <p>17 around, first couple years in 2000.</p> <p>18 Q. And in what court did you</p> <p>19 bring the first lawsuit, the one in</p> <p>20 Queens?</p> <p>21 A. I believe it was through</p> <p>22 Staten Island, but that case got</p> <p>23 dismissed.</p> <p>24 Q. And did you sue in the name</p>

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<p style="text-align: center;">Page 18</p> <p>1 Mathew Thomas, Jr.?</p> <p>2 A. Yeah.</p> <p>3 Q. And where did you bring the</p> <p>4 second lawsuit that happened in New York</p> <p>5 City?</p> <p>6 A. The second lawsuit started</p> <p>7 out in New York City and then the lawyers</p> <p>8 all changed the venue over to Staten</p> <p>9 Island so, currently, it's pending there.</p> <p>10 Q. And did you have a lawyer</p> <p>11 for -- that represented you in the</p> <p>12 lawsuit connected to the Queens accident?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Who was that lawyer?</p> <p>15 A. Matthew Santamauro.</p> <p>16 Q. And how about for the car</p> <p>17 accident that happened in New York City?</p> <p>18 A. It was Louis Galgano.</p> <p>19 Currently, it's John -- I have to check</p> <p>20 my phone for the last name. It's an</p> <p>21 Irish name.</p> <p>22 Q. And how did you find those</p> <p>23 lawyers for those lawsuits?</p> <p>24 A. The family lawyer is --</p>	<p style="text-align: center;">Page 20</p> <p>1 emergency room at Staten Island</p> <p>2 University Hospital, had the cut managed</p> <p>3 as well as a CT scan.</p> <p>4 Q. Have you gotten the results</p> <p>5 of your CT scan back?</p> <p>6 A. Yes. They were okay.</p> <p>7 Q. Did you experience any pain?</p> <p>8 A. Yes.</p> <p>9 Q. A lot of pain?</p> <p>10 A. Yeah. Yes.</p> <p>11 Q. Are you prescribed anything</p> <p>12 for that pain?</p> <p>13 A. No. I declined.</p> <p>14 Q. Any follow-up treatment</p> <p>15 other than the CT scan?</p> <p>16 A. No. Just I haven't been at</p> <p>17 work all week so it's just rest.</p> <p>18 Q. And do you plan to file a</p> <p>19 lawsuit in that case --</p> <p>20 A. No.</p> <p>21 Q. -- in relation to the slip</p> <p>22 and fall?</p> <p>23 A. No.</p> <p>24 Q. A few other preliminary</p>
<p style="text-align: center;">Page 19</p> <p>1 Matthew Santamauro is a family lawyer,</p> <p>2 and John I was referred, after I was</p> <p>3 having issues with the other lawyer,</p> <p>4 through co-workers.</p> <p>5 Q. When you say that Matthew</p> <p>6 Santamauro was a family lawyer, what do</p> <p>7 you mean by that?</p> <p>8 A. We've had other -- my uncle</p> <p>9 is very good friends with him for all his</p> <p>10 business needs so...</p> <p>11 Q. You also mentioned -- were</p> <p>12 there any other lawsuits that you were a</p> <p>13 party to?</p> <p>14 A. Not that I remember.</p> <p>15 Q. You also mentioned that on</p> <p>16 Sunday, this past Sunday you were</p> <p>17 involved in a slip and fall?</p> <p>18 A. Yes.</p> <p>19 Q. Where did that occur?</p> <p>20 A. In front of my house in</p> <p>21 Staten Island.</p> <p>22 Q. And can you tell us whether</p> <p>23 you sought any medical treatment?</p> <p>24 A. I did. I went to the</p>	<p style="text-align: center;">Page 21</p> <p>1 questions that I want to ask you. What</p> <p>2 is your date of birth?</p> <p>3 A. November 28th, 1977.</p> <p>4 Q. And what's your home</p> <p>5 address?</p> <p>6 A. 31 Roosevelt Avenue, Staten</p> <p>7 Island, New York, 10314.</p> <p>8 Q. Who do you live with?</p> <p>9 A. My spouse, my kids and my</p> <p>10 parents.</p> <p>11 Q. How many kids do you have?</p> <p>12 A. I have a stepson and a son</p> <p>13 and one on the way.</p> <p>14 Q. And what does your spouse</p> <p>15 do?</p> <p>16 A. She's a housewife.</p> <p>17 Q. Is she the person that</p> <p>18 attended the hearing?</p> <p>19 A. No.</p> <p>20 Q. Who was that person?</p> <p>21 A. That was a colleague of</p> <p>22 mine.</p> <p>23 Q. A colleague from your</p> <p>24 current work?</p>

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<p>1 A. Yes. 2 Q. What is her name? 3 A. Salvatrice Scerbo. 4 Q. Where were you born? 5 A. Staten Island, New York. 6 Q. And so you're a United 7 States citizen? 8 A. Yes, I am. 9 Q. Are you a citizen of any 10 other country? 11 A. I have an OCI card for 12 India. It's not really dual citizenship, 13 but it gives me the right to own property 14 in India if I want. 15 Q. Do you own any property in 16 India? 17 A. No, I don't. Currently, no. 18 Q. Have you in the past? 19 A. No. My father has some 20 property that may wind up coming down to 21 me as time goes on. 22 Q. Have you ever been arrested? 23 A. Yes, I have. 24 Q. Tell me about the first time</p>	<p>1 Q. Third time? 2 A. Driving under the influence. 3 Q. Is there a fourth time? 4 A. No. 5 Q. Were you ever arrested for 6 anything other than driving under the 7 influence? 8 A. No. 9 Q. And did all of those occur 10 in New York? 11 A. Yes. New York meaning Long 12 Island, New York, not New York City. 13 Q. Right. Were you convicted 14 of driving under the influence? 15 A. I had one misdemeanor, two 16 violations. 17 Q. One misdemeanor. So two 18 misdemeanor convictions? 19 A. No. One was considered a 20 misdemeanor. Two of them were considered 21 violations. 22 Q. Did you lose your license? 23 A. Yes, I did. 24 Q. For how long?</p>
Page 23	Page 25
<p>1 you were arrested, when was that? 2 A. If I may ask, what's the 3 relevance to the case? 4 Q. Because there may be some 5 reasons under the rules of evidence that 6 it becomes important for the Court to 7 hear about any prior criminal contacts 8 that you've had. 9 You're going to be a witness 10 in the case, and your credibility is an 11 issue in the case. Any person who is a 12 witness, credibility is an issue in the 13 case. Okay? 14 A. Okay. 15 Q. So tell me about the first 16 time that you were arrested. When was 17 that? 18 A. I don't remember the exact 19 year. It was driving under the 20 influence. 21 Q. How about the second time 22 you were arrested? 23 A. Again, driving under the 24 influence.</p>	<p>1 A. I think six months and then 2 a year. 3 Q. Did the DUIs occur while you 4 were in school? 5 A. I don't believe so. I think 6 they were all post graduation. 7 Q. Post graduation from medical 8 school? 9 A. From medical school. I 10 think they were all after 2003. 11 Q. You indicated that you don't 12 remember the exact year, but do you 13 remember the time when your license was 14 suspended? 15 A. Well, I remember the last 16 one. The last one happened in 2009. The 17 two before that were well before that, so 18 I don't remember the exact dates. 19 Q. So 2009 was the last one and 20 then the other two, were they -- 21 A. They were about five or so 22 years before that. 23 Q. So maybe 2004? 24 A. I think around three, four,</p>

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<p>1 around, but I can't say with certainty. 2 Q. Have you ever testified in 3 court before? 4 A. Yes, I have. 5 Q. And was that in reference to 6 the two cases that you told us about? 7 A. That was in reference to the 8 last case, 2009. 9 Q. Any other cases that you 10 testified in court before? 11 A. No. 12 Q. Have you ever filed for 13 bankruptcy? 14 A. No. 15 Q. And who, if anyone, have you 16 spoken to about your lawsuit in this 17 case? 18 A. Nobody. Only counsel. 19 Q. When you say only counsel, 20 what do you mean? 21 A. I have a lawyer. I had a 22 lawyer, Rebecca -- I forgot her last 23 name -- that I had hired out of the 24 Midwest and then another family lawyer</p>	<p>1 look in your exhibit binder at Exhibit 2 21. Do you recognize Exhibit 21? 3 A. Yes, I do. 4 Q. What is that? 5 A. This is the transcript to 6 the hearing that I had December 16th of 7 2009. 8 Q. And do you remember 9 testifying at this hearing? 10 A. Very much. 11 Q. Were you under oath at this 12 hearing? 13 A. Yes, I was. 14 Q. And did you give truthful 15 answers at the hearing? 16 A. I did. 17 Q. Did you give accurate 18 answers at the hearing? 19 A. I did. 20 Q. As you read over the 21 transcript in preparation for today, did 22 you notice any mistakes in the 23 transcript, any typographical errors? 24 A. There are some typographical</p>
<p style="text-align: center;">Page 27</p> <p>1 that I sought advice. 2 Q. But neither of those lawyers 3 are representing you? 4 A. No. 5 Q. Have you posted anything 6 online about the case? 7 A. No. 8 Q. Do you use Facebook? 9 A. I do use Facebook. 10 Q. Have you posted anything on 11 Facebook about the case? 12 A. No. 13 Q. How about any message 14 boards? 15 A. No. 16 Q. So in preparation for today 17 what did you do to prepare? 18 A. Basically, went over just 19 the transcript from my hearing, went back 20 and forth with the letters that had been 21 written by Ms. Detich as well as my 22 appeal and, basically, that was it. 23 Q. When you say you went over 24 the transcript, I'm going to ask you to</p>	<p>1 errors. I did notice some. 2 Q. Did any of the typographical 3 errors that you noticed change the 4 meaning of any of your answers? 5 A. No. 6 Q. Did any of the typographical 7 errors change the meaning of any of the 8 questions? 9 A. No. 10 Q. Is it fair to say that all 11 of the -- all of the answers that you 12 gave to the questions in this transcript 13 are true? 14 A. Yes. 15 Q. Did you meet with an 16 attorney in preparation for today? 17 A. For today? No. 18 Q. What do your parents do? 19 A. Both retired. 20 Q. And what did they retire 21 from? 22 A. Dad was an electrician. 23 Mother was an LPN. 24 Q. Do you have siblings?</p>

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<p>1 A. Yes, I do. Two sisters. 2 Q. What do they do? 3 A. One is a social worker. One 4 is in marketing. 5 Q. Are you working now? 6 A. Yes, I am. 7 Q. Where do you work? 8 A. I work for St. Barnabas 9 Hospital in the Bronx, but I work at 10 their off-site clinic, Southern Medical 11 Group. 12 Q. It's called Southern Medical 13 Group? 14 A. Yes. 15 Q. What do you do there? 16 A. I'm the site administrator. 17 Q. What are the duties of the 18 site administrator? 19 A. I run the whole center. 20 Q. When you say you run the 21 whole center, what does the center do? 22 A. I manage the center. We see 23 patients in different specialties, so I 24 take care of both the registration, daily</p>	<p>1 A. No. 2 Q. Who is your 3 supervisor -- your current supervisor? 4 A. It's the senior VP at St. 5 Barnabas for ambulatory care, Pat Belair. 6 Q. How do you spell Pat's last 7 name? 8 A. Patricia Belair, 9 B-E-L-A-I-R. 10 Q. And how long have you worked 11 there? 12 A. September 2012, so a year 13 and four months now. 14 Q. Do you work anywhere else 15 now? 16 A. Yes, I do. 17 Q. Where else do you work? 18 A. I work at Technical Career 19 Institute as an instructor. I work at 20 St. Paul's School of Nursing as an 21 instructor, and starting next week I'll 22 be teaching at Metropolitan College of 23 New York, MCNY, also as an instructor. 24 Q. You're quite busy.</p>
Page 31	Page 33
<p>1 operations, billing, everything that's 2 involved in running a facility. 3 Q. How big a facility is it? 4 A. It's -- in terms of size or 5 in terms of patient volume? 6 Q. In terms of patient volume? 7 A. I would say we see close to 8 a thousand patients a month. 9 Q. And how many people do you 10 supervise? 11 A. Including physicians, 12 approximately 18 to 20. 13 Q. About how many of those 18 14 to 20 are physicians? 15 A. About five. 16 Q. And are those all the 17 physicians on staff at the Southern 18 Medical Group? 19 A. No. There are other 20 physicians who rent space who report to 21 me indirectly, but they don't report to 22 me. 23 Q. Do you provide any patient 24 care?</p>	<p>1 A. I have no choice. I have a 2 housewife. 3 Q. I'm sorry. You said 4 Metropolitan? 5 A. College of New York. MCNY 6 is what they go by. 7 Q. Let me take these in turn 8 then. So you told us about your 9 responsibilities at the Southern Medical 10 Group. 11 What will you be teaching at 12 the Technical Career Institute? 13 A. This semester will be 14 medical/legal issues as well as 15 healthcare systems. 16 Q. Have you taught there 17 before? 18 A. Yes. I've been teaching 19 there since 2010, I believe. 20 Q. Continuously? 21 A. Continuously. 22 Q. Medical and legal issues. 23 Do you prepare the syllabus for that 24 class?</p>

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<p style="text-align: right;">Page 34</p> <p>1 A. The syllabus has kind of 2 been given to us by the department. 3 Those are the classes that I had this 4 semester and last semester. Before that 5 I had different classes. 6 Q. Do you have a supervisor at 7 TCI? 8 A. Currently, no. The dean of 9 our department basically has been 10 promoted and so they have a vacant 11 position for that dean position. 12 Q. Who's the person that you 13 would say you report to at TCI? 14 A. Honestly, I haven't had -- I 15 haven't had to report to anyone. If I 16 had to talk to anyone, maybe the provost. 17 Q. What's that person's name? 18 A. It's Dean Dillon. C. Dillon 19 would be probably the provost. 20 D-I-L-L-O-N. 21 Q. So what exactly are medical 22 and legal issues? 23 A. It's just ethics. It's an 24 ethics class.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. I started last semester. 2 Just I'm a lab -- lab instructor for 3 anatomy and physiology I and II. 4 Q. What kind of school is St. 5 Paul's School of Nursing? In other 6 words, is it an associate's program? A 7 graduate degree? <i>ASSOCIATES</i> 8 A. I believe it's a <i>bachelor's</i> 9 in nursing. The students who graduate 10 from there are able to take the <i>NCLEX</i> 11 class for the LPN and RN. <i>NCLEX</i> 12 Q. You said you started 13 teaching there in 2013? 14 A. Yes. September. 15 Q. Who's your supervisor? 16 A. Anne Lubrano. 17 Q. How do you spell Lubrano? 18 A. L-U-B-R-A-N-O. 19 Q. And then finally, MCNY, the 20 Metropolitan College of New York. Did 21 you say you're going to be an instructor 22 there? 23 A. I'm going to be teaching 24 classes there.</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. And who takes the class? 2 A. The students that register 3 for -- well, that's an HIT class so it's 4 healthcare and information technology so 5 students under that major. 6 Q. Are they undergraduates? 7 A. Yeah. This would be an 8 associate's program. 9 Q. An associate's program. Do 10 you have any legal training? 11 A. For...? 12 Q. Just in general? 13 A. Legal training, no. 14 Q. You're not a lawyer or 15 anything? 16 A. No. 17 Q. Do you teach that course on 18 your own or do you co-teach it with 19 someone? 20 A. On my own. 21 Q. Moving onto St. Paul's 22 School of Nursing. You indicated you're 23 an instructor there. Can you tell us 24 what you teach?</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. What class? 2 A. I haven't got a finalized 3 schedule but, tentatively, it seems like 4 it's going to be medical terminology and 5 possibly anatomy and physiology. 6 Q. Is that a bachelor's 7 program? Associate program? 8 A. That's a bachelor's program. 9 It's a four-year college. 10 Q. How many hours per week do 11 you currently work? 12 A. Right now? 13 Q. Yeah. 14 A. Officially or including time 15 that we put, like -- you know, I'm salary 16 so, basically, I'm going to put in more 17 hours than my regular 9:00 to 5:00. 18 Q. Well, just approximate the 19 number of hours that you work total. 20 A. Probably 12 to 14 a day. 21 Q. Five days a week? 22 A. Well, with the MCNY I'll be 23 teaching Saturday, too, so it will be six 24 days.</p>

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<p>1 Q. You mentioned that you're on 2 a salary. What is your current salary at 3 St. Barnabas Southern Medical Group? 4 A. It's approximately 92,000 5 and change. 6 Q. And what's your salary at 7 TCI? 8 A. We make 65 an hour. 9 Q. So that one is hourly? 10 A. Hourly, yes. 11 Q. And St. Paul's School of 12 Nursing? 13 A. Is 32 an hour. 14 Q. And MCNY? 15 A. I believe it's going to be 16 approximately 60. 17 Q. Did you bring copies of your 18 tax returns? 19 A. No, I did not. 20 Q. So in your current positions 21 are you using your medical training at 22 all? 23 A. No, I'm not. Well, I can't 24 say that. If I'm teaching anatomy</p>	<p>1 this litigation began? 2 A. I have not because I'm not 3 able to. 4 Q. What do you mean you're not 5 able to? 6 A. I'm not able to take the 7 test currently. 8 Q. In your -- you told us about 9 your employment at St. Barnabas, 10 Technical Career Institute, St. Paul's 11 School of Nursing, Metropolitan College 12 of New York. Are there any other jobs 13 that you had since medical school? 14 A. Yes. 15 Q. Where else have you worked? 16 A. I worked at Kaplan in New 17 Jersey. 18 Q. What did you teach at 19 Kaplan? 20 A. I was a CS instructor, 21 clinical skills instructor and patient 22 note grader. 23 Q. And how long did you work at 24 Kaplan?</p>
<p>1 physiology it would be part of my medical 2 training, and medical terminology would 3 also be part of my medical training. 4 Q. In addition to working, are 5 you currently in any study courses for 6 the USMLE? 7 A. No, I'm not. 8 Q. I know that you didn't bring 9 your tax returns with you, but can you 10 estimate for us what your total income 11 was for last year? 12 A. Approximately, maybe 115. 13 Somewhere between 110 and 115, I believe. 14 Q. How about the year before 15 that? 16 A. It was much lower. It was 17 under a hundred thousand, I believe, the 18 year before. 19 Q. So you're not enrolled in 20 any study courses for the USMLE 21 currently? 22 A. No. 23 Q. What have you done, if 24 anything, to prepare for the USMLE since</p>	<p>1 A. I started, I believe, 2006, 2 and at some point I kind of -- they took 3 me off of payroll around -- I think about 4 a year or two ago. 5 Q. Which Kaplan in New Jersey 6 did you teach at? 7 A. Newark. 8 Q. Any other employment since 9 medical school? 10 A. I worked at New York City 11 Health and Hospital Corporation, HHC. 12 Q. And when did you work there? 13 A. I started in 2009 all the 14 way 'til 2012. 15 Q. What did you do? 16 A. I was first an 17 administrative assistant and then I got 18 promoted to compliance officer. 19 Q. Compliance officer? 20 A. Yes. 21 Q. Any other jobs? 22 A. I worked partially for 23 Optima. 24 Q. When did you work for</p>

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<p style="text-align: center;">Page 42</p> <p>1 Optima? 2 A. 2008. For a couple months 3 throughout 2008. 4 Q. And what was your job at 5 Optima? 6 A. I just assisted students 7 when they first came in. Basically 8 setting them up with a station for them 9 to study at as well as showing them the 10 system that they were supposed to use, 11 how to turn the computer on, how to log 12 in and then tell them they have to do a 13 hundred questions a day. 14 Q. I'm going to go back to 15 Kaplan. What was your salary or wage 16 when you worked at Kaplan? 17 A. I think when I was a trainer 18 it was 14 an hour and as a patient note 19 grader, 11 an hour. 20 Q. How about at New York City 21 Health and Hospital Corp.? 22 A. I was salary there as well. 23 I started off at 70,000 and got promoted 24 up to about 85,000.</p>	<p style="text-align: center;">Page 44</p> <p>1 A. At the time? He had some 2 other instructors that were there. 3 Q. Anybody else that did the 4 same job that you did? 5 A. No. They were actually 6 professors. They taught. I didn't 7 teach. 8 Q. Can you estimate for us how 9 much money you made working at Optima? 10 A. Maybe a couple thousand. 11 Q. Were you working at Optima 12 at the same time you were working at 13 Kaplan? 14 A. I was on payroll at Kaplan. 15 I don't remember what hours I was getting 16 at the time. Kaplan doesn't run the CS 17 course all the time, so it's really only 18 when they run the course that you can 19 work. 20 Q. So you were teaching courses 21 at Kaplan, but for Optima you were just 22 working the front desk? 23 A. That's correct. 24 Q. And did you have an</p>
<p style="text-align: center;">Page 43</p> <p>1 Q. And at Optima what were you 2 paid? 3 A. It varied. Whatever he 4 wanted to give me since I wasn't really 5 set with the daily schedule or anything. 6 Q. About how much did you make? 7 A. I honestly don't remember. 8 Q. Did you file a tax return? 9 A. No, I did not. 10 Q. When you say "he," whatever 11 he wanted to give you, who is he? 12 A. Suliman. Dr. Suliman who is 13 the owner of the program. 14 Q. And was he the person that 15 you reported to? 16 A. Yes. 17 Q. Was he the only person you 18 reported to? 19 A. Yes. Well, he had a wife, 20 also, so if she needed anything in his 21 absence, but direct report was basically 22 to him. 23 Q. Who else worked there with 24 you?</p>	<p style="text-align: center;">Page 45</p> <p>1 arrangement with either Kaplan or Optima 2 where you were receiving test prep 3 services as well as being an employee? 4 A. At the time of my 5 employment, no. 6 Q. When you were employed at 7 Optima, you were still in the process of 8 taking the USMLE exams. Is that right? 9 A. I completed 1, 2 and CS. I 10 had Step 3 pending. 11 Q. And Optima 12 University -- well, what is Optima? 13 A. Optima University was a 14 USMLE test prep course. It basically 15 covered, basically, Step 1 and Step 2. 16 Q. And when you say Step 2, do 17 you just mean Step 2 CK? 18 A. CK. 19 Q. Now, did Optima exist solely 20 as a test prep company for the USMLE? 21 A. That was my understanding. 22 Q. Did they teach any other 23 tests or subjects? 24 A. I don't believe so.</p>

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<p>1 Q. Did the question bank have 2 questions from any other exams? 3 A. Not that I know of. 4 Q. And did the question bank 5 have -- were there separate question 6 banks for Step 1 and Step 2 CK? 7 A. Yes, there were. 8 Q. And when a person came to 9 Optima, did they bring with them their 10 own computer? 11 A. No. 12 Q. So they used an Optima 13 computer? 14 A. Yes, they did. 15 Q. Did Optima provide people 16 with any other study materials other than 17 the computer? 18 A. Not that I -- I don't 19 believe so. 20 Q. You mentioned that there 21 were people who taught classes. What 22 were the classes that were taught? 23 A. Honestly, I didn't get 24 involved in that. If the students</p>	<p>1 A. I can't recall how many. 2 Q. Dr. Suliman, was he a 3 practicing doctor? 4 A. He was an M.D. is what he 5 told us. I don't know if he practiced 6 prior, but while he was at the center, 7 no. 8 Q. And do you know where he 9 went to medical school? 10 A. Somewhere abroad. 11 Q. I think what I'm going to 12 have you do is if you would, turn in your 13 exhibit book to Exhibit 1. Do you see 14 Exhibit 1? 15 A. Yes. 16 Q. Do you recognize it? 17 A. Yes, I do. 18 Q. And that's the -- this is 19 the complaint that you initially filed? 20 A. Yes. The initial one. 21 Q. And then turning to Exhibit 22 ? 23 A. The amended complaint. 24 Q. So I just wondered if you</p>
<p>1 requested specific lectures on specific 2 topics, the instructors were told to make 3 a lecture based on those topics. They 4 varied in subject matter. 5 Some days it may be -- there 6 was no real structure -- Kaplan has a 7 structured course. There's a set lecture 8 set for every day of the week, set hours. 9 This was very basically ad hoc, as needed 10 or if the students had requested 11 something specific. 12 Q. So the instructors that were 13 on staff were basically there to respond 14 to questions that arose from the 15 students? 16 A. Yes. The instructors 17 actually were added on in 2008. Before 18 that when I was a student, Dr. Suliman 19 only did the lectures. He was the only 20 one teaching. 21 Q. And did you attend any of 22 those lectures? 23 A. Yes, I did. 24 Q. About how many?</p>	<p>1 could walk us through your complaint and 2 amended complaint and tell us what it is 3 that you are asking for; what the 4 specific complaints are from a legal 5 standpoint that you're making against the 6 NBME and against the ECFMG? 7 A. My specific complaint is 8 outlined in the amended complaint more 9 so, and I believe that the major issues 10 I'm having is that I believe I was 11 discriminated against based solely on the 12 fact that I was an employee at Optima; 13 that the evidence that was presented 14 before me was not complete. 15 There's more assumptions and 16 that word was basically -- even in the 17 hearing, was said to have been 18 observations, no real analysis, 19 statistical analysis. 20 I feel that it's more so 21 that my role post exam is why that I am 22 being told that my score is invalid with 23 actually no real proof or evidence 24 presented towards me of what they did and</p>

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<p style="text-align: center;">Page 50</p> <p>1 didn't have at my time of the exam. 2 Q. So discrimination, is that 3 the sole cause of action that you're 4 alleging? 5 A. I believe I'm being falsely 6 accused, and I believe that 7 discrimination is a major portion of the 8 reasoning behind NBME's decisions against 9 me. 10 Q. I just want to be sure that 11 we have everything, so discrimination and 12 false accusations? 13 A. I believe there's a level of 14 defamation with that as well. 15 Q. And tell me a little bit 16 more about the defamation claim. 17 A. I believe that by going 18 forward and continuing to show that I was 19 involved in Optima and in the hearing as 20 well, Susan Detich went out of her way to 21 bring up my employment. 22 I think that they tried to 23 post a picture of me as being part of the 24 Optima University and, therefore,</p>	<p style="text-align: center;">Page 52</p> <p>1 exam. 2 Q. And you did -- you said you 3 did all of the test banks out there. 4 Optima was not the only test prep company 5 that had a test bank. Is that right? 6 A. That is correct. 7 Q. But Optima is one of the 8 test banks that you accessed? 9 A. At the time I was a student 10 I did have access to the Optima bank. 11 Q. So I just want to make sure 12 that we're clear. So the defamation is 13 based on the statements that were made 14 about you in front of the committee on 15 score validity? 16 A. I believe that's -- yes. 17 Q. And is your claim for 18 defamation based on statements to anybody 19 else other than just what happened 20 in that committee on score validity? 21 A. Honestly, I cannot tell you 22 what NBME -- who they spoke to before 23 that committee, so I honestly can't say 24 if they spoke to anybody else, but I can</p>
<p style="text-align: center;">Page 51</p> <p>1 assumptions that I had access to 2 materials, whether I was a student or not 3 a student, that may have been copyright 4 infringement or stolen. 5 And I think by making me 6 look that way already, you put a 7 stereotype in a person's mind, including 8 the committee that day, because if it was 9 strictly regarding the score validity on 10 my exam, my employment never had to come 11 up. 12 Q. Do you agree that you were 13 exposed to some of the test questions 14 that you saw on that December exam that 15 you passed? 16 A. As I said in the past, I've 17 done all the question banks out there, 18 and maybe 20 questions seemed similar. I 19 can't say if it was from Optima or USMLE 20 World and the Kaplan Qbank or the NBME 21 assessment tests, but outside of those 22 20, no. I don't think that I saw 23 anything that was especially statistical 24 numbers that they gave referring to my</p>	<p style="text-align: center;">Page 53</p> <p>1 go by what -- just like I said, at that 2 committee hearing, to have Ms. Detich 3 bring up my employment, going out of her 4 way to bring up my employment, it shows 5 she was trying to show and maneuver a 6 certain direction. 7 Q. So we have discrimination 8 and we have defamation. Are there any 9 other causes of action? 10 A. I mean, I think with the 11 discrimination goes what I have written 12 here, basically that I'm falsely accused. 13 They tend to show a picture as if -- they 14 don't directly say. They try to show me 15 as a picture of an accomplice to Dr. 16 Suliman. 17 And, basically, I do have 18 the right to be involved with anyone. By 19 association, you're not guilty by about 20 what another person does, and I think all 21 that put together is basically where we 22 are today. 23 And I believe also there is 24 that one issue that I believe that if</p>

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<p>1 NBME as well as -- or ECFMG at the point 2 had known about this course being suspect 3 or may have had certain questions from 4 the time they first found out, I believe 5 there was negligence on their part that 6 they did not let all students know that 7 either you shouldn't be going there or 8 that it was a questionable course. 9 They let students go there, 10 continue there for a long time and then 11 they came afterwards. So I think there's 12 a large level of negligence on NBME's 13 part.</p> <p>14 Q. So you think that the NBME 15 should have warned people that they may 16 be cheating on the exam?</p> <p>17 A. Yes.</p> <p>18 Q. When you used the question 19 bank at Optima, can you tell us what that 20 looked like? How you accessed it?</p> <p>21 A. You have a log-in. You're 22 basically given a log-in by him. You log 23 in and, basically, it lists down -- this 24 is basically an archaic-looking system.</p>	<p>1 Q. At the question bank? 2 A. I did not spend as much time 3 at the question bank because I'm pretty 4 quick with questions so I just look at 5 them and I go. His question bank for 6 Step 2 at the time, I'd say anywhere 7 between 700 to a thousand questions, very 8 minimal. I spent a lot more time having 9 group conversations with people, 10 understanding material and then going to 11 lectures so that was basically that.</p> <p>12 Q. How many other students were 13 there at Optima when you were there?</p> <p>14 A. When I first started over 15 there, if I had to guess or take an 16 estimate, I would say there was less than 17 20 students, and of those, maybe six were 18 Step 2. The rest were all Step 1.</p> <p>19 Q. And did you review -- would 20 you say you reviewed all the 700 to a 21 thousand questions that were in the Step 22 2 CK bank?</p> <p>23 A. I did go through all the 24 questions at least once. Some sections</p>
<p>1 I think it was like a lightish blue 2 background, big, almost like -- what's 3 the word I'm looking for? Comic 4 lettering. It wasn't like Times Roman or 5 anything.</p> <p>6 Q. Like Comic Sans?</p> <p>7 A. Yeah. Kind of like, you 8 know, and, basically, it was a question 9 and you had the answer of choices. You 10 pick your choice, and the next page would 11 basically be the right answer and a 12 description of why that's the right 13 answer or why it would be wrong. Almost 14 like your USMLE World, similar thing, and 15 it was separated by subject matter.</p> <p>16 Q. When you use the word "he," 17 you said when he would --</p> <p>18 A. Referring to Dr. Suliman.</p> <p>19 Q. And how many hours a day 20 would you say you spent at the question 21 bank?</p> <p>22 A. At the question bank or at 23 the centers? Two different things for 24 me.</p>	<p>1 more.</p> <p>2 Q. Did you review the questions 3 in the Step 1 bank, also?</p> <p>4 A. No. If you're in Step 2, 5 you don't get access to Step 1. If 6 you're in Step 1, you don't get access to 7 Step 2.</p> <p>8 Q. So just going back to the 9 causes of action. I just want to be 10 sure. We have discrimination, the breach 11 of the duty to warn, right, and then 12 defamation.</p> <p>13 Are there any other causes 14 of action that you're alleging 15 against either the NBME --</p> <p>16 A. If you're looking for 17 something specific, I'd have to go 18 through each one again.</p> <p>19 Q. And I should add, and the 20 freedom to associate, right?</p> <p>21 A. Yeah.</p> <p>22 Q. So we're at four. We're at 23 four, and I'll just restate them, so 24 discrimination, duty to warn, freedom of</p>

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<p>1 association and defamation?</p> <p>2 A. Falsey accused.</p> <p>3 Q. I thought that went with</p> <p>4 defamation?</p> <p>5 A. That's what I'm saying. I</p> <p>6 don't know -- when you say it like that,</p> <p>7 I don't know exactly how -- what you're</p> <p>8 putting together.</p> <p>9 Q. I want you to tell me</p> <p>10 because I want to make sure that I have</p> <p>11 everything.</p> <p>12 A. Well, I believe, like I</p> <p>13 said, that there is -- all the matters</p> <p>14 were in my complaint, and it does go down</p> <p>15 to the fact that I was falsely excused. <i>ACCUSED</i></p> <p>16 I don't believe I did anything wrong. I</p> <p>17 took the test legitimately.</p> <p>18 Accomplice because they go</p> <p>19 out of their way to show that I worked</p> <p>20 with him.</p> <p>21 Discrimination based on the</p> <p>22 fact that I did work with him, and I do</p> <p>23 have the freedom of association.</p> <p>24 I don't believe -- I don't</p>	<p>1 causes of action?</p> <p>2 A. Yes. Those are my main</p> <p>3 points given the fact that Judge Rufe</p> <p>4 wanted me to amend it.</p> <p>5 Q. Anything else from the</p> <p>6 original complaint?</p> <p>7 A. I'd have to look over that</p> <p>8 again as well. I didn't separate it as</p> <p>9 well as I did with the second one. So as</p> <p>10 I said, I wouldn't think those are the</p> <p>11 only ones. There might be more.</p> <p>12 Q. I want to make sure because</p> <p>13 now is the time to do that. Take as much</p> <p>14 time as you need to look through Exhibit</p> <p>15 1 and let us know.</p> <p>16 A. Are you asking just for</p> <p>17 legal complaints?</p> <p>18 Q. Yes, for the causes of</p> <p>19 action.</p> <p>20 A. I believe those are the main</p> <p>21 ones.</p> <p>22 Q. I know those are the main</p> <p>23 ones, but I want to make sure that we</p> <p>24 have them all. Are there any others that</p>
<p>1 think this is a legal thing, but I don't</p> <p>2 think the analysis was done even though I</p> <p>3 was told that an analysis was done. I</p> <p>4 think they changed the wording. Ms.</p> <p>5 Carson changed the wording multiple</p> <p>6 times.</p> <p>7 There was negligence on part</p> <p>8 of the NBME not warning students, so</p> <p>9 there was a duty there.</p> <p>10 Copyright infringement, even</p> <p>11 at the last hearing you guys said I'm not</p> <p>12 being thought of as having violated that,</p> <p>13 but I think through association I think</p> <p>14 there is an indirect thing; that if I am</p> <p>15 associated with him and he's guilty of</p> <p>16 that, that I'm being said that I'm part</p> <p>17 of that as well. And then defamation as</p> <p>18 well.</p> <p>19 Q. So I noticed that you were</p> <p>20 sort of going through Exhibit 2, the</p> <p>21 amended complaint, and reading the</p> <p>22 italicized words. Do I take that -- am I</p> <p>23 correct in taking that to mean that those</p> <p>24 are your headings for the different</p>	<p>1 you want to add?</p> <p>2 A. I mean, I don't know if</p> <p>3 there's a legal term to be putting for</p> <p>4 the fact that I believe that the appeal</p> <p>5 was not taken seriously. The waivers</p> <p>6 that were requested were not -- I think</p> <p>7 they go back to the background. There's</p> <p>8 a stereotype against me.</p> <p>9 And the fact that I've asked</p> <p>10 for certain waivers that I believe were</p> <p>11 justified, such as me taking the exam</p> <p>12 2007 and them not doing any validation</p> <p>13 until almost the end of 2011 and them not</p> <p>14 extending my seven-year period being an</p> <p>15 issue which I believe was a legitimate</p> <p>16 request.</p> <p>17 So I don't know how legally</p> <p>18 that just -- I think it all falls back to</p> <p>19 the discrimination and all the other</p> <p>20 things that I mentioned.</p> <p>21 Q. Anything else that you want</p> <p>22 to mention before we move on from this</p> <p>23 topic?</p> <p>24 A. No.</p>
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<p>1 Q. I do want to talk to you 2 about damages. So in Exhibit 2, the 3 second to last page, paragraph 28, you 4 write: Plaintiff has suffered harm 5 through emotional distress, reputational 6 damages and pecuniary damages due to the 7 actions set forth by the defendants. 8 I want to take those in 9 turn. What do you mean when you say 10 emotional distress? 11 A. The emotional distress, the 12 drinking and all that other stuff was all 13 due to my -- the situation I was in. 14 Q. Did you seek any assistance 15 from a psychiatrist or psychologist? 16 A. I didn't have insurance at 17 the time so, basically, anyone I did talk 18 to was basically friends to kind of -- 19 who just encouraging me to keep at it and 20 let it go through. 21 The emotional distress 22 because I was at Optima University and 23 there was no warning. When the FBI came, 24 I was deposed by them almost</p>	<p>1 went knowing that Step 3 was probably my 2 only last chance to try to get in if I 3 had passed it the first time around. 4 Q. So you participated in the 5 scramble, but how did you get to the 6 scramble? 7 A. The scramble is always post 8 match. You just have to apply. Since I 9 had finished Step 2 at the end of 2007, 10 then I went into the scramble in 2008. 11 Q. And all that was happening 12 before the Optima raid, right? 13 A. That was all before, yeah. 14 Q. So I want to talk a little 15 bit about that. You were ECFMG 16 certified? 17 A. As of 2007, yes. 18 Q. Right. And that gave you 19 the ability to participate in the 20 residency match? 21 A. That's correct. 22 Q. And when you attempted to 23 match, how many -- how many choices did 24 you make?</p>
<p style="text-align: center;">Page 63</p> <p>1 two-and-a-half, three hours, having to 2 deal with all the students and all the 3 fallout afterwards, after all this 4 happened. 5 And the fact that even now, 6 after all that's going on, I'm still not 7 able to keep my score valid even though I 8 passed everything 2007, so now we're six 9 years later and I'm not a doctor 10 practicing. 11 Q. What type of medicine were 12 you planning to practice? 13 A. I would have taken anything. 14 Family practice would probably be my 15 fallback even though my interests were 16 ortho and rehab or psych. 17 Q. As a medical student did you 18 attempt to match in the residency 19 program? 20 A. After I passed 2007 I tried 21 to scramble. It was a very bad scramble. 22 First time trying I became very, 23 very -- what's the word I'm looking 24 for -- discouraged about how the match</p>	<p style="text-align: center;">Page 65</p> <p>1 A. You mean when I scrambled? 2 Q. No. You have to attempt to 3 match before you can scramble. 4 A. No. You have to buy a 5 token, but you don't actually have to be 6 in the match to match in order for you to 7 be in the scramble. 8 Q. You did not participate in 9 the match? 10 A. I did not because most 11 interviews start September, and since I 12 had not passed Step 2 and I had just 13 recently failed in July, I didn't 14 participate. 15 I believe one time I did the 16 match; and I don't remember exactly, I 17 think prior, I spent a couple thousand 18 dollars and got nowhere. 19 Q. So about how many times did 20 you participate in the actual match? 21 A. Honestly, I don't remember 22 the exact thing with the match, but I 23 believe I had tried once, but I may be 24 mixing the match and scramble together,</p>

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<p>1 but I did spend a certain amount of 2 money. I don't remember if it was you 3 have to pay to be in the scramble or not. 4 Q. Did you scramble more than 5 once? 6 A. No. Just the one time 7 because 2008 came around. By the time 8 scramble came around the next time, we 9 were in the middle of the whole Optima 10 situation. 11 Q. So, again, you scrambled, 12 and did you have any interviews as a 13 result of that? 14 A. No. Yes, phone screening 15 Q. So how did you lose out on a 16 bunch of money from scrambling? 17 A. No. I'm saying I had spent 18 money -- I believe the one time I tried 19 to match. It's very expensive to apply, 20 and you just get a rejection letter 21 afterwards. It's like throwing money 22 away. 23 Q. So you scrambled once and 24 matched -- tried to match once?</p>	<p>1 out right away, you get filtered out 2 right away. 3 Q. Other than your multiple 4 attempts at the exam, do you think there 5 were any other reasons why you didn't 6 match? 7 A. My Step 1 score was not as 8 strong, was not that strong so that would 9 be another reason. 10 Q. What do you mean when you 11 say multiple attempts? 12 A. The amount of times I took 13 the step exam. 14 Q. And all told, how many times 15 did you take Step 1? 16 A. I passed Step 1 on the 17 seventh try. Even though I registered 18 seven times, I may not have sat for all 19 of them. Sometimes I sat just because I 20 paid. I figured why not just take it as 21 just a studying tool. 22 Q. And with Step 2 CK, how many 23 times did you attempt? 24 A. I passed it on the sixth</p>
<p>1 A. Yeah. 2 Q. When you tried to match did 3 you have any interviews? 4 A. No. 5 Q. And what do you think the 6 reason was for you not having any 7 interviews when you tried to match? 8 A. Multiple attempts. 9 Q. At the exam? 10 A. At the exam. 11 Q. What do you think the reason 12 was when you attempted to scramble that 13 you didn't have any interviews? 14 A. Well, the problem with 15 scramble is you can't get through to a 16 lot of people. 17 Q. What do you mean? 18 A. Everyone is calling. You 19 have thousands and thousands of students 20 trying to call all these programs that 21 have open vacancies so getting through is 22 hard enough. And then when you get 23 through to somebody, depending on what 24 they're looking for, if you get filtered</p>	<p>1 time. 2 Q. What's the reason that it 3 took you seven attempts to pass Step 1? 4 A. I've never been a 5 standardized test taker. 6 Q. Is that the same reason why 7 it took you six attempts to pass Step 2? 8 A. That, also. Plus, the fact 9 that I never was studying the right way. 10 I was always doing multiple things at the 11 same time, so I was never really fully 12 focused just on the work. 13 Q. Any other reasons why you 14 think you had a difficult time or were 15 unsuccessful in matching with a residency 16 program? Yes, graduation date 17 A. No. I think it's just the 18 way the match is set up. If you're not 19 first attempt, high score, I think the 20 amount of applicants that apply for the 21 limited number of residency positions, it 22 winds up being a hard thing. 23 Q. What makes you think that 24 the residency programs care about</p>
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<p>1 multiple attempts?</p> <p>2 A. They've made it very clear.</p> <p>3 Q. How?</p> <p>4 A. Sometimes when you interview</p> <p>5 with them, when you talk to people in</p> <p>6 programs, the first thing they say is you</p> <p>7 should make sure you pass first time,</p> <p>8 high score. You go to Kaplan, you go to</p> <p>9 all these review courses, the professors</p> <p>10 who teach tell you right away, don't take</p> <p>11 the exam until you're ready.</p> <p>12 Things have changed since I</p> <p>13 first started med school to what it is</p> <p>14 now. Back then all you have to do is</p> <p>15 pass. The residency position is still</p> <p>16 kind of available. Now it's not the same</p> <p>17 way.</p> <p>18 Q. I want to take you through</p> <p>19 your educational history a bit.</p> <p>20 A. Sure.</p> <p>21 Q. Where did you go to high</p> <p>22 school?</p> <p>23 MS. HOLLAND: This might be</p> <p>24 a good place to take a little</p>	<p>1 Q. What happened in your senior</p> <p>2 year?</p> <p>3 A. They put me in Calculus BC</p> <p>4 when I didn't want to be.</p> <p>5 Q. What's that mean?</p> <p>6 A. They put me in a high graded</p> <p>7 AP course that I tried to get out of and</p> <p>8 they refused, and that's the only class I</p> <p>9 think that I did not do so well in.</p> <p>10 Q. When you say you had an</p> <p>11 above a hundred average, how is that</p> <p>12 possible?</p> <p>13 A. AP classes get weighted</p> <p>14 higher because they are college level</p> <p>15 courses to a point, so my GPA was always</p> <p>16 very high. So my cum going into my last</p> <p>17 quarter I was ranked one. I lost my rank</p> <p>18 the very last semester of high school.</p> <p>19 Q. Your ranked one out of how</p> <p>20 many students?</p> <p>21 A. Three-hundred and something.</p> <p>22 Q. Did you receive any honors</p> <p>23 in high school?</p> <p>24 A. High honors all the way</p>
Page 71	Page 73
<p>1 break.</p> <p>2 MS. McENROE: Let's go off</p> <p>3 the record.</p> <p>4 (A discussion was held off</p> <p>5 the record.)</p> <p>6 (A short break was taken.)</p> <p>7 BY MS. HOLLAND:</p> <p>8 Q. So, Dr. Thomas, again, you</p> <p>9 are still under oath. You understand</p> <p>10 that, correct?</p> <p>11 A. Yes, I do.</p> <p>12 Q. So where did you go to high</p> <p>13 school?</p> <p>14 A. Monsignor Farrell High</p> <p>15 School, Staten Island.</p> <p>16 Q. How do you spell Farrell?</p> <p>17 A. F-A-R-R-E-L-L.</p> <p>18 Q. Is it a Catholic school?</p> <p>19 A. Yes, it is.</p> <p>20 Q. What were your grades like?</p> <p>21 A. I was always above a hundred</p> <p>22 average. Cumulative average usually</p> <p>23 ranged around 102 to 104 except towards</p> <p>24 my senior year.</p>	<p>1 through. Honor -- what's called Honor</p> <p>2 Society last two years.</p> <p>3 Q. Any awards that you have?</p> <p>4 A. Honor Society stuff as well</p> <p>5 as I was involved in a lot of</p> <p>6 extracurricular activities, so I got an</p> <p>7 award for that at graduation.</p> <p>8 Q. What kind of</p> <p>9 extracurricular?</p> <p>10 A. You name it, I was in it.</p> <p>11 Q. Did you work during high</p> <p>12 school?</p> <p>13 A. No.</p> <p>14 Q. Do you remember what you got</p> <p>15 on the SAT?</p> <p>16 A. I took the SAT three times.</p> <p>17 Ultimately, the last time I believe I</p> <p>18 wound up with a 1270.</p> <p>19 Q. And that was out of 1600?</p> <p>20 A. Out of 1600.</p> <p>21 Q. What year did you take the</p> <p>22 SAT?</p> <p>23 A. I graduated in '95, so it</p> <p>24 had to be junior year so '94, '95, I</p>

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<p style="text-align: right;">Page 74</p> <p>1 assume. 2 Q. And tell me about applying 3 for college. Where did you apply? 4 A. I applied to CUNY, SUNY, 5 Johns Hopkins, a couple schools. I don't 6 remember all of them. I didn't really 7 know too much. Since my parents are 8 first generation here, they really had no 9 idea how the college system works so, 10 basically, we just kind of went with what 11 we knew. 12 Q. And where did you end up 13 going to college? 14 A. I wound up getting a 15 scholarship to Johns Hopkins, refused it 16 and then wound up going to Europe for two 17 years. 18 Q. What was the scholarship at 19 Johns Hopkins? 20 A. It was for an electrical 21 engineering program, a five-year master's 22 program. 23 Q. And when you went to Europe, 24 what made you decide to do that?</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Why did you come back? 2 A. I came back -- the school 3 was doing some corrupt stuff where 4 students were buying their grades. I 5 wasn't a big fan of -- 6 Q. The University of Debrecen? 7 A. Yes. 8 Q. I'm sorry to interrupt you. 9 What do you mean students were buying 10 their grades? 11 A. Back then, because it's 12 Europe and their system is different, 13 they do a lot more oral exams. It's oral 14 and written but more so oral and, 15 basically, we found out -- or we were 16 approached about paying our way through. 17 Q. Who's "we"? 18 A. Me and other students. 19 Q. Are you in touch with any of 20 those other students? 21 A. I know them -- I know some 22 of them that are still here, but I didn't 23 really keep in touch as much, just people 24 I knew before.</p>
<p style="text-align: right;">Page 75</p> <p>1 A. I had some friends that were 2 going there. Figured it was a different 3 experience. It was supposed to be for 4 premed. 5 Q. What school did you study 6 at? 7 A. It was called University of 8 Debrecen. D-E-B-R-E-C-E-N. 9 Q. In what country? 10 A. In Hungary. 11 Q. And what did you study 12 there? 13 A. It was premed. 14 Q. Did you earn a degree from 15 the University of Debrecen? 16 A. No. I came back two years 17 later. 18 Q. And where did you go? 19 A. I went to State University 20 of New York at Stony Brook. 21 Q. And why did you decide on 22 Stony Brook? 23 A. Why I decided on Stony Brook 24 or why I came back?</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Did they also leave the 2 University of Debrecen? 3 A. At that time, me and my 4 friend left and then maybe a year or so 5 later there was a major exodus from 6 Hungary to Poland. A lot of students 7 that were in Hungary left over to Poland. 8 A lot of students stayed so it all 9 depended, I guess, what semester you were 10 in at the time. 11 Q. What was the name of your 12 friend who you left the university with? 13 A. That left there when I left? 14 Q. Yeah. 15 A. My friend Vinil. 16 Q. V-I? 17 A. V-I-N-I-L. 18 Q. What's Vinil's last name? 19 A. V-A-R-G-H-E-S-E. He left 20 because he just wasn't feeling medicine 21 anymore. He was my roommate at the time, 22 so he came back and did finance. 23 Q. So you came back to the U.S. 24 did you withdraw from the University of</p>

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Page 78	Page 80 <i>Lutherford</i>
<p>1 Debrecen or did you transfer? 2 A. I transferred over because 3 SUNY at Stony Brook gave me credits for a 4 lot of classes, so they kept me at a 5 status of junior. So since I didn't lose 6 any time, I switched right over to Stony 7 Brook. 8 Q. Is that why you selected 9 Stony Brook? 10 A. Yes. 11 Q. When you studied at Stony 12 Brook were you living at home? 13 A. No. 14 Q. You lived on your own? 15 A. I lived on my own. 16 Q. So at Stony Brook what year 17 did you graduate? 18 A. '99. 19 Q. And what was your grade 20 point average? 21 A. I think it was somewhere 22 around 3.0, I believe, give or take. 23 Q. Did that take into account 24 your grades from Debrecen?</p>	<p>1 was working at -- I believe that was 2 called Waldron Center for the Aging which 3 is a nursing home as a dietary aide, and 4 I was taking 22 credits at the time. 5 Q. Is there a reason why you 6 needed to work four different jobs? 7 A. Paying for college. 8 Q. So you didn't have student 9 loans? 10 A. I did have some student 11 loans, but I wasn't taking anything from 12 my parents at the time so... 13 Q. What did you major in at 14 Stony Brook? 15 A. I started off with 16 electrical engineering. Yeah. 17 Electrical engineering and then wound up 18 with psychology. 19 Q. That's quite a dramatic 20 shift. How did you settle on psychology? 21 A. Just I wanted to graduate on 22 time, so I basically switched my major my 23 senior year, took all the classes I 24 needed and finished the degree off in a</p>
<p>1 A. I don't remember how the cum 2 works. 3 Q. Any awards or honors from 4 Stony Brook? 5 A. I got on the Dean's List 6 once, I believe. 7 Q. Is there a reason why your 8 grades were lower at Stony Brook than 9 they were in high school? 10 A. I was working about four 11 jobs at the time. 12 Q. Tell us where you were 13 working? 14 A. I was working as security 15 for their parties. 16 Q. Whose parties? 17 A. For any Stony Brook parties 18 that were on campus. I worked as an 19 overnight stocker at Edwards which is a 20 grocery store. I worked at Options for 21 Community Living which was a community 22 residence, and I was working at the book 23 store at the campus. 24 And then towards the end I</p>	<p>1 year. 2 Q. Since you started off as an 3 electrical engineering major, did you 4 explore the possibility of going back to 5 Johns Hopkins? 6 A. I did. I did think about 7 going back for biomed engineering, but 8 then I got word there was schools in the 9 Caribbean, so I decided to go back to 10 medicine. 11 Q. Did you minor in anything at 12 Stony Brook? 13 A. No. 14 Q. And when you took the MCAT 15 in college, what score did you get? 16 A. I don't remember exactly 17 what the score was. I took it once. 18 That also because at that time my 19 girlfriend wanted to take it, and she 20 kind of forced me into it because I 21 didn't really want to take it. 22 Q. You didn't really have an 23 interest in practicing medicine? 24 A. No, because MCATs were not</p>

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<p style="text-align: center;">Page 82</p> <p>1 required in the Caribbean at the time. 2 Now they're more so required, so she 3 asked me to take it to try to get into 4 med school in the U.S., but I knew 5 already it wasn't going to be fruitful. 6 Q. Did she end up going to med 7 school in the U.S.? 8 A. No. She wound up going to 9 psych and went on with her life. 10 Q. Is that girlfriend the 11 person who's now your wife? 12 A. No. 13 Q. So tell me what made you 14 decide to go to medical school? 15 A. I think -- I've always had 16 an interest in medicine. I did like my 17 time when I was in Hungary. When the 18 Caribbean came up and some of the 19 students that were in Hungary were in the 20 Caribbean at Ross, they basically told me 21 the islands are nothing like they were 22 over there, so you may want to try it 23 again, so I said all right. What do I 24 got to lose?</p>	<p style="text-align: center;">Page 84</p> <p>1 Q. When you first applied to 2 medical school? 3 A. I never applied to a medical 4 school in the U.S. 5 Q. No. I mean, when you first 6 applied to medical school, period? 7 A. Ross University is all I 8 looked for. 9 Q. Is that R-O-S-S? 10 A. R-O-S-S in Dominica. 11 Q. In West Indies? 12 A. I don't know if you consider 13 that West Indies or not. Caribbean. 14 Q. So when did you start 15 medical school at Ross University? 16 A. September '99. 17 Q. So you didn't take any time 18 from after you graduated Stony Brook; 19 next semester you were starting medical 20 school? 21 A. Just the summer. That's it. 22 Q. And for how long did you 23 attend Ross University? 24 A. Ross University, I was there</p>
<p style="text-align: center;">Page 83</p> <p>1 Q. So when you say the 2 Caribbean came up, who was it -- whose 3 idea was it for you to go to medical 4 school in the Caribbean? 5 A. No. That was -- friends of 6 mine had told me they had transferred 7 over, people that I knew from Hungary 8 before, but, ultimately, it was my 9 decision to go down and do med school. 10 Q. And was there any reason why 11 you didn't try to go to a medical school 12 in the United States? 13 A. I didn't have the GPA in my 14 background. I didn't do premed and the 15 MCAT scores was not high enough, so I was 16 not going to try to apply, because if I 17 had to try again toward the end of that 18 year, I probably would have wasted 19 another year before I got in because all 20 the applications were much earlier in the 21 year. 22 Q. How many medical schools did 23 you apply to? 24 A. For the Caribbean?</p>	<p style="text-align: center;">Page 85</p> <p>1 for a year. 2 Q. One year. Did you 3 eventually leave Ross? 4 A. I did leave Ross. 5 Q. Why? 6 A. Ross is considered a weed 7 out school. 8 Q. What do you mean by that? 9 A. Meaning, they'll start their 10 first semester with approximately three 11 to 500 students, and they only have room 12 for maybe 125 by their first ^{fifth} semester 13 because of clinical rotations, so it 14 basically -- they basically figure a 15 cutoff and then they start having people 16 repeat. 17 Q. So to get into Ross 18 University you didn't need an MCAT score? 19 A. You did not need an MCAT 20 score. 21 Q. And to get into that Ross 22 University medical school you did not 23 need to be a premed major? 24 A. No.</p>

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<p>1 Q. Were there any prerequisites 2 in terms of your course work? 3 A. At that time, I don't 4 remember exactly what it was. They did 5 accept me so whatever I was doing was 6 considered enough. 7 Q. How much did it cost? Do 8 you remember how much it cost to go to 9 Ross University medical school? 10 A. I don't remember. 11 Q. So were you one of the 12 people that were weeded out then? 13 A. The first semester I did not 14 do too well. I was borderline. I wound 15 up having to repeat my first semester. I 16 passed my first semester the second time 17 around. I passed my second semester. I 18 was going into my third semester when I 19 decided to transfer. 20 Q. Why didn't you do well in 21 your first semester? 22 A. I think it was just the 23 experience of just going down to the 24 Caribbean for the first time. I was</p>	<p>1 make the move. 2 Q. Okay. 3 A. Once you -- go ahead. 4 Q. So this friend that 5 you -- what was her name? 6 A. Neeru. 7 Q. How do you spell that? 8 A. N-E-E-R-U. 9 Q. What school did Neeru 10 transfer to? 11 A. To St. Matthew's. 12 Q. And where was that school? 13 A. At that time it was in 14 Belize. It was in San Pedro. It was a 15 small island on the outside of Belize. 16 Q. Was she your girlfriend at 17 the time or just a friend? 18 A. No. Just a friend. 19 Q. And so you decided to 20 transfer to the same school? 21 A. Yes. 22 Q. And so you attended -- I'm 23 sorry. Give me the full name of the 24 school?</p>
<p>1 still young. I was only like -- what was 2 it? '99, so I was only 22 years old, not 3 even 22 yet and just, you know, I didn't 4 take things as seriously as I should 5 have. 6 Q. Were you asked to transfer 7 or -- 8 A. No. I was never asked to 9 ever leave the school. 10 Q. But you knew that you were 11 going to have to repeat? 12 A. No. I repeated my first 13 semester. I passed my second semester, 14 so I was actually in my third semester, 15 about five days in when I decided to 16 switch. 17 Q. So if you were on track, 18 what was it that made you -- 19 A. Well, one of my close 20 friends and one of my friends that I had 21 studied a lot with, she transferred over. 22 I found out about the school. People 23 were saying the school is very good, so 24 at that time I just made a decision to</p>	<p>1 A. St. Matthew's School of 2 Medicine. Currently, they're in the 3 Grand Caymans. 4 Q. But it was in Belize when 5 you went there? 6 A. Yes. 7 Q. So when did you start there? 8 A. I started there September 9 2000. 10 Q. Through? 11 A. I believe it was either 12 December 2001 or January 2002. 13 Q. Did they accept your credits 14 from Ross University? 15 A. Yes, they did. 16 Q. And when you were -- was 17 that also a weed out school, would you 18 say? 19 A. No. 20 Q. But there was not a need to 21 have a premed background? 22 A. By that time I'm a transfer, 23 so I don't know what their requisites are 24 for first year students -- first semester</p>

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<p>1 students.</p> <p>2 Q. But they didn't require MCAT</p> <p>3 scores?</p> <p>4 A. I don't know. I didn't need</p> <p>5 one because I was transferring.</p> <p>6 Q. So why did you end up</p> <p>7 leaving St. Matthew's University?</p> <p>8 A. So St. Matthew's after</p> <p>9 finishing San Pedro where there was a</p> <p>10 hurricane, we wound up getting all</p> <p>11 evacuated to Orlando. Orlando we did one</p> <p>12 semester and then my fourth and fifth</p> <p>13 semester was up in Maine.</p> <p>14 Q. Why Maine?</p> <p>15 A. Maine is where their U.S.</p> <p>16 campus was. They would do -- people who</p> <p>17 were part of the master's program were</p> <p>18 able to do the med school as well as the</p> <p>19 master's program at the same time up in</p> <p>20 Maine.</p> <p>21 So while I was up there I</p> <p>22 finished my fourth and fifth semester.</p> <p>23 Then you go to clinicals. I went to</p> <p>24 England, Manchester, England to do my</p>	<p>1 happening.</p> <p>2 Late December I got a call</p> <p>3 from St. Christopher University. I</p> <p>4 didn't find them. They found me.</p> <p>5 Basically said that if you want to</p> <p>6 transfer over, you can go to New York to</p> <p>7 do some of your clinicals or we'll get</p> <p>8 you back into the U.S. to do your</p> <p>9 clinicals for the rest of your way.</p> <p>10 Q. Do you know how they got</p> <p>11 your name?</p> <p>12 A. No idea.</p> <p>13 Q. Had you heard of them</p> <p>14 before?</p> <p>15 A. St. Christopher's, actually,</p> <p>16 I never really heard of them. The name</p> <p>17 had been out there. They were more of a</p> <p>18 newer school. So when Dr. Leone called</p> <p>19 me, he explained to me their office was</p> <p>20 in Scotch Plains, New Jersey which is</p> <p>21 right outside of Staten Island.</p> <p>22 So I listened to what he</p> <p>23 said, and the fact that he was willing to</p> <p>24 take me back into the U.S. right away, I</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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<p>1 A. Yes, they did. 2 Q. And when did you graduate 3 from St. Christopher? 4 A. 2003, June. 5 Q. What were your grades like 6 in medical school? 7 A. Well, basic sciences I did 8 very well towards my end. I passed 9 pathophys., anatomy and physiology -- 10 well, not anatomy. Physiology, 11 psychology, pharmacology, all those I did 12 well. 13 Q. What happened with anatomy? 14 A. Just -- I just never really 15 got into it. Now I teach it so it's kind 16 of ironic, but now I have a better grasp, 17 I guess. 18 Q. Did you pass it in medical 19 school? 20 A. I did pass it, yeah, my 21 second time. That was one of the classes 22 I had messed up my first semester at 23 Ross. That was mainly because of the 24 lab.</p>	<p>1 New York. 2 Q. And where did you rotate in 3 Atlanta? What was the name? 4 A. Ridgeview Institute. 5 Q. How about in Connecticut? 6 A. Griffin Hospital in Derby as 7 well as Saint Raphael's in New Haven. 8 Q. And how about in New York? 9 A. Flushing Hospital was for 10 pediatrics and OB-GYN, and Northport VA 11 Hospital were some of my electives. 12 Q. Did you have any jobs during 13 medical school? 14 A. I was still working at the 15 nursing home as a dietary aide sometimes 16 while I was back in the country in 17 between semesters, so they left me on 18 payroll. 19 Q. Any other employment? 20 A. Not that I recall. 21 Q. When did you begin studying 22 for the USMLE? 23 A. It was throughout med 24 school. I mean, I studied here and</p>
<p>1 Q. Do you know what your grade 2 point average was for medical school? 3 A. I don't remember. They do 4 it a little differently because once you 5 get to clinicals, it's just pass or fail, 6 so I don't know the cum average. 7 Q. At what point in time -- did 8 you do clinical rotations then? 9 A. I did. 10 Q. And where did you do the 11 clinical rotations? 12 A. So like I said, I had 13 originally started my medicine rotation 14 and some OB-GYN in Manchester. I did 15 psych in Atlanta. I did surgery in 16 Connecticut. I did pediatrics in New 17 York. What am I missing? OB-GYN was in 18 New York, Flushing and then I did all 19 my -- basically all my electives in 20 Connecticut and Northport, the VA 21 hospital. 22 Q. In Connecticut? 23 A. No. In New York. My 24 electives were between Connecticut and</p>	<p>1 there. Because I went straight from 2 first semester into clinicals, I never 3 really took my time to sit down and just 4 study Step 1, so I kept trying to do it 5 along the way which was a big mistake. 6 Q. What study methods did you 7 use for Step 1? 8 A. Basically, First Aid which 9 is a Bible for -- 10 Q. What's it called? 11 A. First Aid. 12 Q. First Aid? 13 A. First Aid. They call it the 14 Bible for med students for Step 1. Did 15 some, I think -- the Kaplan review course 16 was part of the fifth semester at St. 17 Matthew's, meaning they gave us some 18 Kaplan materials so it covered through 19 that, some question banks, assessment 20 tests. 21 Q. So First Aid, Kaplan. 22 Anything else? 23 A. Like I said, the USMLE 24 World. I don't know when that started.</p>

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<p style="text-align: center;">Page 98</p> <p>1 Q. Is that online? 2 A. It was online. NBME 3 assessment tests, Kaplan Qbank and then 4 some other review courses that were out 5 there. 6 Q. What other review courses? 7 A. I did PASS program which is 8 located in Illinois. I did Northwest 9 Medical Review. At that time it was in 10 Michigan, right outside of Michigan State 11 University. I also did the Kaplan and 12 then I believe that was it for Step 1. 13 Q. When you say you did PASS 14 program in Illinois, did you actually go 15 to Illinois? 16 A. Yes, I did. 17 Q. Did you live there? 18 A. I did. You have to stay 19 there to take the course. 20 Q. And you said Northwest 21 Medical Review in Michigan. Did you 22 actually live there as well? 23 A. Yes, I did. 24 Q. Kaplan question bank or</p>	<p style="text-align: center;">Page 100</p> <p>1 Suliman I believe started only in 2007. 2 I passed my Step 1 in 2006. 3 Q. How did you learn about all 4 these other review courses that you took? 5 A. You Google online. 6 Q. What other -- were there any 7 available USMLE Step 1 prep courses that 8 you didn't take? 9 A. Well, I don't know when 10 Falcon started. I know that's one that's 11 out there right now. Premier Review does 12 the Step 2, Step 3. I don't know if they 13 do Step 1. I guess that's it. I don't 14 really know what else is out there. 15 Q. And which exam -- or which 16 prep courses did your friends take? 17 A. Most people took Kaplan. 18 That seemed to be the premier one that 19 most people liked to take. As time went 20 on some people started with Falcon 'cause 21 Dr. Goljan who was with Kaplan left and 22 started on his own. 23 Q. Do you still have any study 24 materials from any of those?</p>
<p style="text-align: center;">Page 99</p> <p>1 Kaplan Qbank, is that an online system? 2 A. They have an online as well 3 as a Q book. 4 Q. Which did you use? 5 A. I did both. I had access to 6 both. I didn't really complete all of 7 them but I did here and there. 8 Q. The NBME assessment tests, 9 did you use an online system to access 10 that? 11 A. Yes, I did. 12 Q. And USMLE World, we already 13 covered that's an online system, right? 14 A. That's right. 15 Q. Did you study with Optima 16 University at all for your first -- 17 A. For Step 1, no. 18 Q. Why not? 19 A. I didn't know about the 20 course, and I believe when I passed, he 21 wasn't even in existence yet. 22 Q. When you say "he," you mean 23 Suliman? 24 A. Optima University. Dr.</p>	<p style="text-align: center;">Page 101</p> <p>1 A. For which courses? 2 Q. Any of those courses? 3 A. I don't know. Kaplan I, may 4 have some old books. PASS program, I may 5 have my own notebook. 6 Q. Among your peers that you 7 graduated with from St. Christopher, did 8 many of them pass the USMLE Step 1? 9 A. I never really got close to 10 many people with my graduating class. It 11 was a very small class. 12 Q. How many were in it? 13 A. Less than 25, I believe. 14 Q. Do you know whether they -- 15 A. From what I've heard, I 16 mean, the one or two people I did know 17 were on the way to getting into residency 18 from what I understand. I know Neeru, 19 she graduated. She's finished residency 20 in Georgia so she's done, obviously, but 21 I don't know of anybody else. 22 Q. Is she practicing medicine 23 now? 24 A. She's kind of practicing</p>

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<p>1 with her husband. Her husband is an 2 orthopedic surgeon, so she's running his 3 clinic and having babies so...</p> <p>4 Q. Did you know anyone else who 5 had an indeterminate score on any Step of 6 the USMLE?</p> <p>7 A. Indeterminate meaning, like, 8 similar to mine where they had to 9 validate?</p> <p>10 Q. Right.</p> <p>11 A. Yes, I did.</p> <p>12 Q. Who?</p> <p>13 A. Any students who went to 14 Optima who got a letter kind of told me 15 their situation.</p> <p>16 Q. So did you become friends 17 with most of the other students at 18 Optima?</p> <p>19 A. I don't know if I was 20 friends. I knew all the students because 21 they all had to come through me at some 22 point once I started working there. A 23 lot of them wound up having to come to me 24 when the FBI came.</p>	<p>1 to worry about it; that everything will 2 get back to normal once he proved 3 himself, and he has his lawyers on it.</p> <p>4 Q. And did you believe him?</p> <p>5 A. I did actually believe him.</p> <p>6 Q. Even after you spent two to 7 three hours with the FBI?</p> <p>8 A. The FBI asked me the same 9 questions. I told them everything I 10 know. Basically, I took it for face 11 value.</p> <p>12 Q. Do you still believe Dr. 13 Suliman?</p> <p>14 A. Now that I've seen articles 15 and stuff; his wife is basically saying 16 she was doing it with him, then I have to 17 say that he was lying to all of us.</p> <p>18 Q. What do you mean his wife 19 said she was doing it?</p> <p>20 A. I'm sorry. I think she 21 testified that she went in and videotaped 22 exams, at least this is what I've seen in 23 the articles. I haven't talked to her 24 directly or seen direct transcripts from</p>
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<p>1 Q. What do you mean they had to 2 come to you?</p> <p>3 A. Well, Dr. Suliman was not in 4 the country at the time, so everyone who 5 was going through the situation, they 6 were asking what's going on. So since I 7 was really the only one that was kind of 8 there, they all would come to me and ask.</p> <p>9 Q. During that time did Dr. 10 Suliman ask you to kind of take care of 11 things in the U.S. with the students?</p> <p>12 A. He didn't ask me. In fact, 13 we didn't get communication with him for 14 a couple days after the FBI came. A lot 15 of students left. I didn't feel right 16 leaving other students behind, so I stuck 17 it out until he came back, basically.</p> <p>18 Q. What were your conversations 19 like with Dr. Suliman after the FBI 20 raided Optima?</p> <p>21 A. He basically told us that 22 there's nothing to worry about, that he's 23 done nothing wrong, that it's all a 24 racist thing because he's Muslim and not</p>	<p>1 the case so I wouldn't know.</p> <p>2 Q. Did you know when you were 3 working there that people had videotaped 4 or photographed exams?</p> <p>5 A. No. Never.</p> <p>6 Q. So how many other students 7 would you say you knew from Optima 8 University that had that indeterminate 9 designation on their USMLE record?</p> <p>10 A. I would say that well over 11 30 or so, but he had close to a hundred 12 students.</p> <p>13 Q. So 30 out of the hundred?</p> <p>14 A. Probably. If we go back to 15 what you had said before in terms of 16 reputational damages and stuff, a lot of 17 students, once it got to that point in 18 Tennessee, stopped even contacting me, 19 and even when I reached out to them for 20 things that I needed, they refused to 21 take my call. So, basically, the 22 association became me associated with 23 him.</p> <p>24 Q. And why would you have</p>

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<p>1 reached out -- like for what sorts of 2 things were you reaching out to them? 3 A. There were some students who 4 had lived in the apartment that I was 5 living in. 6 Q. At Optima? 7 A. At Optima. Other students 8 had left to Tennessee, and I would get 9 random calls about things and asking me, 10 do you know this? Do you know that? So 11 I'd reach out to other people who may 12 have been down there. 13 Plus, there are some that I 14 knew as friends. We would drink 15 together. We'd go out, hang out, have 16 dinner or whatever together and just 17 reaching out to reach out, birthdays and 18 stuff and just never got a reply back. 19 Q. Did you feel that people 20 were angry with you? 21 A. I don't think anyone was 22 angry with me because they all knew that 23 when he disappeared I was still there, so 24 I don't think anyone held me responsible</p>	<p>1 A. I don't remember. I know a 2 lot of them went for hearings. Some were 3 considered indeterminate or invalid. I 4 don't know what happened after them 5 because, like I said, they stopped 6 contacting me. And then there was a 7 bunch that were basically let go and 8 they're in residency and done now. 9 Q. Are you in touch with any of 10 those people? 11 A. Off and on. I'll see some 12 of them at weddings and stuff, but I 13 don't keep in touch with anybody, really. 14 Q. Can you give me the names of 15 anybody that you know that was in the 16 same situation you were in with regard to 17 having to validate their indeterminate 18 score? 19 A. My friend, Reeju Thomas. 20 Q. How do you spell that? 21 A. R-E-E-J-U, Thomas. Samuel 22 might be in there also as a middle name 23 or last name. He was found 24 indeterminate. I believe he was actually</p>
<p style="text-align: center;">Page 107</p> <p>1 for anything. But I think one went as 2 far as to say, you know, that when they 3 talked to NBME they were told that I 4 worked there and I worked with him, so 5 they felt they shouldn't talk to me 6 anymore. 7 So, to me, I mean, I think a 8 part of it was just by association. So 9 they were just -- they figured if they 10 talked to me then they didn't want to be 11 in that association as well, so they just 12 kept clear, which I can understand which 13 is why I don't really hold a grudge 14 against anyone. 15 Q. Do you know of those 30 16 people that have the indeterminate -- or 17 about 30 people that have the 18 indeterminate designation, how many of 19 them took the validating exam? 20 A. I only heard of, I think, 21 three people that took the validation 22 exam. 23 Q. What did the rest of them 24 do?</p>	<p style="text-align: center;">Page 109</p> <p>1 the first student that NBME contacted. 2 He went through a whole ordeal, finally 3 took the exam, validated one and then 4 based on that validation, they validated 5 the other one without him having to 6 retake it. 7 Q. Anybody else? 8 A. I don't remember who 9 actually validated and who got off. 10 Q. Well, just give us the names 11 of anybody who had that indeterminate? 12 A. Farhana Chowdhury I know had 13 similar numbers to me and she was 14 validated. 15 Q. She was validated. Anybody 16 else? 17 A. There's a bunch of people 18 that had to go in. I don't remember all 19 the names. 20 Q. Tell us as many as you do 21 remember. 22 A. I know Samir did. I don't 23 know his last name. His sister was 24 there.</p>

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<p>1 Q. His sister was where? 2 A. Also called in. She was 3 also at Optima. Manjit. 4 Q. Do you know Manjit's last 5 name? 6 A. A lot of them I know by 7 first name because, like I said, I don't 8 keep in touch with them, so I don't 9 remember. If you give me a list then 10 it'd be easier for me to say names. 11 Q. Did any of those -- well, do 12 you know anyone else who has sued the 13 NBME or the ECFMG? 14 A. No. I'm the only one. 15 Sandeep Shukla. 16 Q. How do you spell his last 17 name? 18 A. S-H-U-K-L-A. And he worked 19 for Suliman, also, but he was validated; 20 I don't know how, and he's done residency 21 now. 22 Q. What did he do for Suliman? 23 What kind of work? 24 A. He was an original from the</p>	<p>1 Q. What was compelling to you 2 about Optima? 3 A. The words guaranteed passing 4 or your money back. 5 Q. How much did you pay to go? 6 A. \$5,000. 7 Q. Did you get your money back? 8 A. I passed. 9 Q. So no? 10 A. No. 11 Q. How did you enroll? 12 A. You go in and you talk to 13 him and he sets you up. Dr. Suliman sets 14 you up. 15 Q. Did you know other people 16 who enrolled, too? 17 A. People who were in the 18 course, yeah. My girlfriend was there. 19 Q. What was your girlfriend's 20 name? 21 A. Simin, S-I-M-I-N. 22 Q. Last name? 23 A. Huda, H-U-D-A. 24 Q. Did she take Optima?</p>
<p>1 beginning of time. Before I was working 2 there he'd be the go-to. He helped them, 3 hooked them up with people, supplies. 4 Q. Did he have kind of the same 5 role at the organization? 6 A. He was kind of an indirect 7 role before I came and then even after I 8 came, then he started actually doing some 9 lectures, I believe. 10 Q. So you sort of took the 11 position that he used to have? 12 A. Well, he wasn't really given 13 a position. He just helped because him 14 and Suliman were close and then I think 15 he started teaching a little bit, and 16 what else did he do? He was at first 17 Step 1 and Step 2. 18 Q. How did you first learn 19 about Optima? 20 A. At that time my girlfriend 21 had a friend who went to the ladies' gym 22 that's right next door, and in the 23 doorway there was a poster that talked 24 about a review course.</p>	<p>1 A. She took the course. 2 Q. Same time you did? 3 A. She did. She failed her 4 Step 1. 5 Q. Did she get her money back? 6 A. No. He never really gave 7 anyone their money back. He kind of 8 convinced them to stay back on the course 9 again and most people didn't. 10 Q. So it was like you can 11 either have your money back or you can 12 take the course for free until you pass? 13 A. Basically. 14 Q. And where was Optima located 15 when you went? 16 A. It was in the business 17 building in Totowa, New Jersey. It was 18 like a shopping complex right off of 19 Route 46. 20 Q. Where were the dormitories? 21 A. There were no dormitories. 22 Q. You didn't live there? 23 A. No. I did. People found 24 their own apartments throughout Paterson</p>

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<p>1 and Totowa. 2 Q. Did you live with other 3 Optima students? 4 A. When I first started I 5 didn't live there and then as time went 6 on I moved out to Paterson and lived with 7 some other students. 8 Q. Who else did you live with? 9 A. At that time it was Cecil 10 Cherian, Toby, I think Matthews is his 11 last name. I don't even remember. Reeju 12 was living there off and on and then 13 there was some girls that were living 14 downstairs and some other people in the 15 area. 16 Q. Where did Dr. Suliman live? 17 A. No idea. I think it was 18 Elizabeth. 19 Q. And how often did you see 20 him? 21 A. When he was in the country 22 he was there every day. That was his 23 pride and joy. 24 Q. How often was he in the</p>	<p>1 employee from February 2008 to August 2 2008? 3 A. Approximately, yeah. 4 Q. When's the last time that 5 you saw Suliman? 6 A. On the day before he left to 7 Tennessee. 8 Q. Are you still in touch with 9 him at all? 10 A. No. 11 Q. How did you contact him 12 after that? 13 A. After he was still in 14 Tennessee for a while so he still had his 15 phone and everything. When the whole 16 situation came when he was raided and 17 people getting called in, I tried to 18 reach out to him. He didn't get back to 19 me until days later. 20 Q. And when did Dr. Suliman go 21 to Tennessee? 22 A. I think it was August, 23 September. 24 Q. So shortly after?</p>
<p>1 country? 2 A. He would leave randomly. 3 The majority of the time he was in the 4 center. 5 Q. So what are the dates that 6 you were a student at Optima? 7 A. I went in around November 8 15th, give or take a couple days, and I 9 took the exam December 31st. 10 Q. So about a month and a half? 11 A. Yeah, but I was out with 12 gastritis in the middle, and I missed 13 some of the holidays. 14 Q. And what was the range of 15 dates that you were an employee at 16 Optima? 17 A. I think I started some time 18 February, and I think it was until around 19 August. 20 Q. Of that next year? 21 A. Of 2008, yeah. 22 Q. So you were a student from 23 about November 15th, 2007 to December 24 31st, 2007, and you were an Optima</p>	<p>1 A. No. I was basically there 2 until the day he left, so I don't know 3 exact dates so I can't say. I know it 4 was at the end of summer, into September, 5 so either August or September, I believe, 6 is when he left. 7 Q. So when Dr. Suliman came 8 back to Optima that's when you left? 9 A. I'm sorry. Say that again. 10 Q. When Dr. Suliman came back 11 to Optima in Tennessee, that's when you 12 left? 13 A. Came back from... 14 Q. I'm sorry. Scratch that. 15 He came -- he was overseas 16 when Optima was in New Jersey and was 17 raided? 18 A. In May. In May of 2008. 19 Q. Right. 20 A. He came back some time, I 21 think, June. 22 Q. And moved...? 23 A. No. He put back a skeletal 24 system for the summer, June, July,</p>

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<p>1 August. He had everything up and running 2 again and then at some point he decided 3 he's moving to Tennessee. 4 Q. Were you part of the move to 5 Tennessee? 6 A. No. I did not go to 7 Tennessee. 8 Q. Why not? 9 A. I was a New Yorker. No 10 reason to go to Tennessee. Plus, in 2008 11 I was doing some research as well, so at 12 that point my focus is to start studying 13 for Step 3. 14 Q. What kind of research were 15 you doing? 16 A. Health and Hospitals 17 Corporation had a research group. I was 18 working on dialysis research. 19 Q. And so when was Dr. Suliman 20 in Tennessee then? 21 A. I know he left, like I said, 22 somewhere towards the end of summer, fall 23 and then I don't know when he was 24 actually shut down over there. I heard</p>	<p>1 A. For...? 2 Q. Everything that's happened? 3 A. Did he steal the questions 4 based on what the evidence is? Yes. Do 5 I blame him for what I chose to do at 6 that time? No, because I don't really 7 know. He lied to everybody. I don't 8 know what we're blaming him for. The 9 situation everyone's in, I guess yeah. 10 Q. When you say he lied to 11 everyone, what do you mean? 12 A. Well, if you're telling me 13 that there's proof that he stole the 14 questions and he said he worked hard to 15 make the questions himself, then he was 16 lying. 17 Q. But you don't hold him 18 responsible for that? 19 A. For the situation I'm in 20 right now? The situation right now, I 21 went in thinking that I was doing the 22 right thing. The situation I am in right 23 now is NBME basically saying that they 24 have proof that I stole stuff I didn't</p>
<p style="text-align: center;">Page 119</p> <p>1 from students he got raided twice, so I 2 don't know what really happened with all 3 that. 4 Q. Did you ever consider suing 5 Optima University or Dr. Suliman? 6 A. When? 7 Q. Ever? 8 A. No. 9 Q. Well, they -- you paid them 10 \$5,000, right? 11 A. Yes. 12 Q. And now you know that they 13 gave you a question bank of stolen test 14 questions? 15 A. And he still is a fugitive 16 and who's going to pay that? So I don't 17 really see who I would be suing. The 18 wife is in jail from what I understand, 19 and he's a fugitive somewhere out East. 20 So unless there's someone who would be in 21 charge of all that or we can get it back 22 from the government, I don't know of any 23 legal way to sue him. 24 Q. Do you blame Optima at all?</p>	<p style="text-align: center;">Page 121</p> <p>1 steal. 2 Q. Right, but you're saying he 3 duped you? 4 A. He duped all of us. That's 5 fine, but, again, my situation right now 6 is not based on him duping me. My 7 situation right now is that NBME claims 8 that I had access to questions that he 9 may or may not have had when I was there. 10 And I have already said 11 multiple times he had updates in March of 12 2008, and I have been given no proof that 13 what they're comparing my exam to was 14 there when I was there, so that's my main 15 thing. And the statistical analysis I 16 keep asking for I have yet to receive it. 17 Q. What does the statistical 18 analysis look like to you? 19 A. I would actually like to see 20 the questions you compared against, and 21 if the questions are there in a data 22 file, you'll have the date that the files 23 were put into his system, and if you 24 compare those dates, I guarantee they're</p>

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<p>1 not when I was there. 2 Q. So let me just ask the 3 question in a different way. When you 4 say statistical analysis, do you actually 5 mean that you want to see the questions? 6 A. I actually do want to see. 7 That's part of my analysis of it, yes. 8 Q. But let me just finish my 9 question before you answer. 10 A. Sure. 11 Q. When you say that you want 12 to see a statistical analysis, do I take 13 that to mean or do you mean by that that 14 you want to see the actual test questions 15 that were exposed test questions that 16 were stolen by Optima and that you 17 answered on the exam? 18 A. Yes, I do. 19 Q. In that statistical analysis 20 is that all that you're seeking? Is that 21 the sum and substance of what you're 22 seeking? 23 A. I'd also want to see the 24 date that it was added to his system and</p>	<p>1 you should have it there. 2 Q. And so is that what you mean 3 by the statistical analysis? 4 A. That's the start of the 5 statistical analysis. 6 Q. What's the rest of the 7 statistical analysis? 8 A. The rest of it is comparing 9 it against my test to show that it does 10 match up and then seeing how many I got 11 right including the time stamps because 12 like I said in my hearing, at the end of 13 every block, if I wind up having ten 14 questions left with a minute left, I'm 15 not going to sit there reading them. I 16 am going to click through. That is going 17 to quicken my time, and if my exposed 18 versus unexposed are in that section, it 19 is going to affect my time. 20 Same way if a question winds 21 up being something difficult and I stare 22 at it for a long time, that's going to 23 wind up increasing my average time. So 24 there is a big -- there is a lot to be</p>
<p>1 also the date that you guys ran the 2 analysis because if the analysis was run 3 two, three years later with his full bank 4 compared to my exam and nothing takes 5 into account when they were added into 6 his bank, then there's a faulty situation 7 right there. 8 Q. So what you're saying is 9 that you want the NBME to tell you when 10 Dr. Suliman added those questions to his 11 question bank? 12 A. I believe that's very 13 pertinent to my case and to my situation. 14 Q. Do you realize that some of 15 those dates may not be available to the 16 NBME; in other words, the NBME may not 17 have knowledge of when Dr. Suliman added 18 questions or didn't add questions to his 19 question bank? 20 A. If you have a data file and 21 it shows what's there, every added 22 document or every added thing should have 23 a date -- creation date. So, in theory, 24 if you have what you say you have, then</p>	<p>1 said, not just, oh, well, this percent 2 was here and this is the time it took. 3 And as Carson said, 4 observation, not analysis. She said it 5 multiple times to me. So according to 6 the appeal and my rights according to the 7 bulletin, I'm due an analysis, and she 8 basically told me it was an observation, 9 not an analysis. So already they went 10 against their own policies and procedures 11 which was part of my appeal process. 12 Q. You had the opportunity to 13 take a validating exam? 14 A. I did. 15 Q. And you failed the 16 validating exam, correct? 17 A. Yes. 18 Q. There was also some time 19 that you could have signed up for and 20 taken Step 2 CK over again, correct? 21 A. After the validation? 22 Q. Right. 23 A. Yes. 24 Q. And you decided not to do</p>
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<p>1 question is, when is it that the six-year 2 rule would have taken effect? I believe 3 it's January 1st of 2013, so I had three 4 months from the time I registered.</p> <p>5 And I'm saying I didn't have 6 the time to study the way I wanted to 7 study so, therefore, taking the exam and 8 failing it would have gotten me -- that's 9 it. I'm done.</p> <p>10 Q. But you were in that 11 position anyway?</p> <p>12 A. Which is why I applied for 13 the waiver. I understood the whole 14 situation which is why I asked for the 15 waiver for the seven-year and the 16 six-attempt rule.</p> <p>17 Q. The real issue was that you 18 hadn't studied for it the way that you 19 wanted to study for it?</p> <p>20 A. Yeah, because at the time we 21 were fighting the whole situation.</p> <p>22 Q. Can you look in your exhibit 23 book to No. 30? You've seen this 24 document before, right?</p>	<p>1 A. Allegedly. Remember, I, to 2 this day, do not accept that I had that 3 many questions when I was taking this 4 course.</p> <p>5 Q. But regardless of what you 6 accept, this document is an analysis of 7 your scores as it -- it compares the 8 percentage correct that were exposed 9 versus the percentage correct that were 10 unexposed --</p> <p>11 A. Okay.</p> <p>12 Q. -- right?</p> <p>13 A. That's what you're saying, 14 yes.</p> <p>15 Q. No. I'm asking you.</p> <p>16 A. Well, you're labeling it 17 that way, so I would have to assume yes.</p> <p>18 Q. I didn't create this 19 document. You understand that, right?</p> <p>20 A. I understand, but I didn't 21 create the document, either.</p> <p>22 Q. But your position has been 23 that you want someone to show you an 24 analysis?</p>
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<p>1 A. Yes, I have.</p> <p>2 Q. And this is an analysis of 3 your Step 2 CK examination that you took 4 on December 31st, 2007 that you --</p> <p>5 A. This is what Janet Carson 6 called an observation.</p> <p>7 Q. She called that an 8 observation?</p> <p>9 A. Yes, she did, and I said 10 that in the hearing, and she did not 11 rebut me.</p> <p>12 Q. Let's take a look at it now. 13 This document records the percentage of 14 questions that were exposed and the 15 percentage of questions that you got 16 correct that were exposed, right? It 17 also records the number of answers that 18 you got correct from unexposed questions.</p> <p>19 A. Okay.</p> <p>20 Q. So of the exposed test 21 items, you got 84 percent correct. Of 22 the unexposed test items, you got 66 23 percent correct, and 32 percent of your 24 overall test had exposed items on it.</p>	<p>1 A. My position is there's a lot 2 of variables that go into these numbers, 3 and none of them have been labeled out to 4 me.</p> <p>5 Q. What are the variables?</p> <p>6 A. Variables, one, how many 7 questions are we talking about?</p> <p>8 Q. Do you know how many 9 questions --</p> <p>10 A. I had to ask Janet Carson 11 later because the test is 300-some 12 questions, but they only count a certain 13 number of questions as part of the actual 14 exam.</p> <p>15 Q. So now you have the answer 16 to that.</p> <p>17 A. Fine. Then are these 18 questions considered at the beginning -- 19 towards the beginning of a block or the 20 end of a block? What are the subject 21 matters in these questions because 22 everyone has a different expertise and 23 different subject matter.</p> <p>24 I'm great in psych. I'm</p>

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<p>1 that?</p> <p>2 A. I did.</p> <p>3 Q. Why?</p> <p>4 A. Because as you notice from 5 before, I work a lot, and I was not able 6 to put the time in, and I could not risk 7 failing it again. Plus, they came up 8 with the six-attempt rule and the 9 seven-year rule. All that put together 10 put me in a very weird and bad situation.</p> <p>11 Q. But before the existence of 12 the six-attempt rule and before the 13 existence of the seven-year rule, you had 14 time to take Step 2 CK again?</p> <p>15 A. When would that time be? 16 The validation exam was taken at the end 17 of 2011.</p> <p>18 Q. Right.</p> <p>19 A. And at that time I was 20 working multiple jobs, plus married with 21 a kid. So the time to sit there and 22 study as I did when I passed would mean I 23 have to put everything aside and just 24 study.</p>	<p>1 Q. And you canceled that 2 attempt?</p> <p>3 A. I canceled it because at the 4 time we were going through the 5 whole -- let me explain the situation. 6 September 2012 I registered 7 for Step 2. At the time I was studying. 8 I was working. I had a kid. I was 9 working multiple jobs. I did not get to 10 put the time in that I wanted. 11 If I had the opportunity to 12 continue taking the attempts, I probably 13 would have just not taken the exam at the 14 time and taken it at a later date. 15 However, with the seven-year rule, as 16 well as the six-attempt rule which is 17 relatively new, basically, if I fail it, 18 I'm done. I wasn't about to risk that 19 again. 20 So I decided not to take it 21 because I had already six attempts, and 22 the six-year rule was going into effect, 23 I believe, January. So had I taken the 24 exam and failed it, then I'm not even</p>
<p style="text-align: center;">Page 127</p> <p>1 Q. Well, you were already 2 studying for Step 3, right?</p> <p>3 A. I was studying for Step 3 4 until 2009 when they stopped me. 2011 -- 5 from the time this whole ordeal started 6 with NBME to 2011 I wasn't studying for 7 Step 3 anymore.</p> <p>8 Q. I want to go back a little 9 bit to what we were talking about with 10 the statistical analysis and the 11 observation.</p> <p>12 Can you define for me what 13 the difference is between an observation 14 and an analysis?</p> <p>15 A. An observation to me is 16 one's opinion of what they see and how 17 they determine what those numbers or 18 those words mean. Statistical analysis 19 is based on fact and numbers and gives a 20 lot more detail as to what is there and 21 why it's there, what it means.</p> <p>22 Q. Didn't you register to take 23 Step 2 CK in September 2012?</p> <p>24 A. I did.</p>	<p style="text-align: center;">Page 129</p> <p>1 allowed to take another attempt. 2 Q. But you were already at six 3 attempts?</p> <p>4 A. But I was allowed to 5 have -- that's why I was trying to 6 get -- because we had grandfathered in, 7 they were giving us an extension time 8 until whatever it was, January, which is 9 why I asked for the waiver to extend the 10 period given the fact that I had no time. 11 Two-and-a-half years is basically taken 12 away from me in the process of this whole 13 Optima situation. 14 So I had asked to extend my 15 seven-year period as well as extend my 16 validation time or waiver from the 17 six-attempt rule because of the time that 18 I had lost. Had I been able to maybe 19 take those exams I may have passed. 20 Q. But you did have time to 21 take those exams and you decided not to 22 take them?</p> <p>23 A. Between when and when? 24 Between 2011 -- well, first, I guess the</p>

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<p>1 great with anything with numbers, so I 2 may be quick like this to get them done, 3 but at the same time, if all the exposed 4 are all infectious disease, micro, stuff 5 that's harder, regardless, I'd be taking 6 more time with them. So it all depends 7 on what type of questions which is 8 another thing I requested and never was 9 given to me.</p> <p>10 So, to me, an analysis is 11 not just a bunch of numbers with 12 percents. It's entire background to how 13 the numbers come about. That's the full 14 analysis to me.</p> <p>15 Q. What you're saying, though, 16 is not that you weren't presented with 17 this information; it's just that you 18 don't accept it as an analysis?</p> <p>19 A. Again, when this was 20 presented to me and I brought it up, 21 Janet Carson made it very clear that this 22 is an observation, not a statistical 23 analysis.</p> <p>24 Q. Do the NBME and ECFMG's</p>	<p>1 Q. Why do you need to see the 2 exact questions?</p> <p>3 A. Some questions are two 4 liners. Some questions are a full page 5 you have to read. It makes a difference.</p> <p>6 Q. So it's the length of the 7 question?</p> <p>8 A. Length of the question as 9 well makes a big difference. The type of 10 question makes a difference.</p> <p>11 Q. What do you mean by type of 12 question?</p> <p>13 A. Media questions versus 14 straightforward questions. Questions 15 that are in series. Questions that have 16 four choices versus questions that have A 17 through K.</p> <p>18 Q. So the length of the 19 question, the type of question, where it 20 was in the block and the subject area?</p> <p>21 A. And the number of answer 22 choices.</p> <p>23 Q. Number of choices. Anything 24 else?</p>
<p style="text-align: center;">Page 135</p> <p>1 labels matter to you or does it matter to 2 you what it is that you're given?</p> <p>3 A. I believe both matter to me, 4 and what I'm given is not a full 5 analysis. This is more like a summary 6 page. If I gave a summary page to a 7 research person, they would not take it 8 as valid without seeing all the backup 9 data to it. Same exact way. If you're 10 going to give me this as my analysis, 11 then I'd like to see where you got to 12 this point.</p> <p>13 Q. So if I understand you 14 correctly, the thing that is missing from 15 this that would make it an analysis is an 16 explanation of the subject areas that the 17 questions were in and the timing of the 18 questions, in other words, were they 19 toward the front of the block, the middle 20 of the block or the end of the questions?</p> <p>21 A. That would be part of it.</p> <p>22 Q. Okay. What else?</p> <p>23 A. The exact questions 24 themselves.</p>	<p>1 A. That would be the ones that 2 come to my head right now.</p> <p>3 Q. I want you to think about 4 it. Are there any other pieces that 5 would make this document a statistical 6 analysis in your mind?</p> <p>7 A. You wrote subject matter?</p> <p>8 Q. Yes.</p> <p>9 A. In subject matter are you 10 describing that as the topic itself or 11 the subject, because within the subject 12 there are topics that take longer.</p> <p>13 Q. I'm not sure what the 14 difference is.</p> <p>15 A. Psychiatry is a subject to 16 me and a topic within psychiatry, let's 17 say, depression versus PTSD or 18 pharmacology of psychiatry makes a 19 difference.</p> <p>20 Q. So subject and topic?</p> <p>21 A. Yes.</p> <p>22 Q. What else?</p> <p>23 A. Other than -- the main thing 24 is, also, like I went back to is when</p>

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<p style="text-align: center;">Page 138</p> <p>1 they found it in the bank and whether 2 they can show that it was -- I had access 3 to it because that makes a big difference 4 of exposed. 5 If you can't prove to me 6 that I saw all those questions and I'm 7 telling you that I didn't, then 8 honestly -- if you wind up getting his 9 question bank in 2008 or if the FBI or 10 whoever gets his question bank when he's 11 in Tennessee and he's added all his 12 updates and now his bank is 2,000 13 questions, NBME does not change their 14 exam questions every month. They don't 15 change them every week. They change them 16 over a long period of time. 17 Q. How do you know that? 18 A. Because they usually shut 19 down in the first two months and they say 20 questions are updated, so they go to the 21 pool. Then of the 300-some questions, 22 the whole point is they put in these, I 23 guess, research questions type of things 24 to see whether or not enough people get</p>	<p style="text-align: center;">Page 140</p> <p>1 questions, so are you not giving credit 2 to any medical students who have taken 3 the exam? 4 I missed passing the exam by 5 one point, so it's not like I jumped from 6 where I had, like, a 60-something and I 7 jumped to an 80-something. I jumped from 8 a 74 to an 85, so there are going to be a 9 good number of questions that you may 10 find exposed that is general knowledge, 11 so then how is that taken into account? 12 So the questions themselves do make a 13 very big difference. 14 Q. And you see on this analysis 15 here, it says comparison group, N equals 16 1162? 17 A. Yes, I do. 18 Q. That was explained to you 19 that that was the number of other 20 examinees whose tests were analyzed and 21 compared with yours in terms of how many 22 percentage of exposed and how many 23 percentage of unexposed they got correct? 24 A. Okay.</p>
<p style="text-align: center;">Page 139</p> <p>1 them right to add them into the regular 2 bank versus getting rid of them as 3 something that's not going to be a good 4 gauge. 5 So if you're not updating 6 your question bank regularly and you're 7 getting his set in 2008 and now you're 8 comparing me to 2007, not knowing what I 9 had access to, yeah, a lot more of my 10 questions may look like I was exposed, 11 but, in actuality, I never saw them 12 because when I was there I had less than 13 a thousand questions to work with. 14 Q. So it's a coincidence that 15 you performed significantly better on 16 those questions? 17 A. It could be, but the point 18 is the number of exposed may be very 19 much. You have to also understand that 20 I'm not -- I don't want to say I'm not 21 stupid, but I also have been studying for 22 the exam, so there is going to be basic 23 knowledge. Whether they were in his bank 24 or not, I would have known the answer to</p>	<p style="text-align: center;">Page 141</p> <p>1 Q. That was explained to you 2 before, right? 3 A. I don't know if it was 4 explained that exact way, but we did 5 touch upon the 1162. I remember that 6 from the transcript. 7 Q. You spent a lot of time 8 thinking about the fairness of this exam, 9 right? 10 A. Yes. 11 Q. And you know that among 12 1,162 other examinees, they got 75 13 percent of the exposed correct and 75 14 percent of the unexposed correct? 15 A. And every single time 16 there's a comparison group, there are 17 outliers. This is the average which 18 means you will have a bunch of people 19 well above 75/75, and you will have many 20 people well below 75/75. 21 So if you want to put me in 22 comparison of all 1,162 on a piece of 23 paper and show me, then I'll take that as 24 something that I can go with, but just</p>

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<p>1 giving me an average doesn't say anything 2 to me because there may be many more 3 people below me who did much more percent 4 correct as my exposed and much less than 5 my unexposed, and I guarantee you they 6 weren't brought in for validity. 7 Q. How can you guarantee? 8 A. Well, I can say that because 9 what I was told at my hearing is the 10 reason I went to Optima is why I was 11 brought in. 12 Q. You were told that at your 13 hearing? 14 A. I was told that at the 15 hearing. 16 Q. So, Dr. Thomas, from what I 17 hear what you're saying, you were 18 presented with this, this piece of paper 19 here, this analysis of your score as 20 compared with 1,162 other people, but you 21 do not accept this as a statistical 22 analysis -- 23 A. I do not. 24 Q. -- right?</p>	<p>1 A. I think, like I said, 2 statistical analysis will take in all 3 variables. Statistics in itself takes in 4 all variables. This is just percentages 5 given based on what you guys call a 6 denominator and enumerator. 7 Q. What do you think the 8 purpose is of the USMLE? 9 A. It's to gauge whether or not 10 students are -- have the right level to 11 be a doctor. 12 Q. And who do you think it's to 13 determine -- strike that. 14 When a person sits for the 15 USMLE, whose job is it to verify that 16 they are -- that their score is an 17 accurate measure of their ability? 18 A. I think the test itself. If 19 you pass the test you should 20 automatically -- it should be understood 21 that that means you're ready to take the 22 test -- you're ready to practice. 23 Q. Doesn't that not account for 24 all the variables?</p>
<p style="text-align: center;">Page 143</p> <p>A. A complete statistical analysis. Q. So you do accept it as a statistical analysis, just not a complete statistical analysis? A. Well, statistics meaning you're taking a group of questions you say was exposed, comparing it to my exam so that's a percentage and then telling me what I got right and wrong on those questions. So do I accept that as being some kind of analysis, it's some kind of -- it's numbers, but I can't necessarily say that it takes all variables into account to be a true statistical analysis. Q. So from your viewpoint as a statistical analysis, this is a statistical analysis; it just doesn't take into account all the possible variables? A. I think this is math. Q. What's the difference?</p>	<p>A. Well, then if you go by that, I passed the test. You're taking this analysis or these numbers to say that it was not valid that I passed the test. I passed the test on the day I took it. You're trying to claim or NBME is trying to claim that because I went to Optima I had access to certain measures that they have yet to prove that I had access to as a reason to take that away from me. Q. Maybe you misunderstood my question. I'll ask it again. When you take the examination, whose job is it to determine whether or not that score is a valid measure of your ability? A. I'm not sure. I would assume whoever created the exam. That was all done before the exam was created. Q. And if the person whose responsibility it is to verify that your score is a valid measure of your ability</p>
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<p style="text-align: center;">Page 146</p> <p>1 does not believe for whatever reason that 2 that score is a valid measure of your 3 ability, then what is that person to do? 4 A. If a person believes that I 5 did not pass that exam legitimately, that 6 person has the ownership without a shadow 7 of a doubt to show and prove that I did 8 not. And at this point, nothing has been 9 shown without a shadow of a doubt because 10 I've clearly stated what I saw and what 11 you guys measured it against are not the 12 same. 13 Q. So you believe that the job 14 is -- of the test is to presume that 15 somebody who passes is prepared to 16 practice medicine? 17 A. I believe so, unless you 18 directly notice that they were cheating. 19 Q. How about a person who fails 20 that examination six times? 21 A. I believe if everyone -- if 22 they continue studying, especially if 23 they know the focus area, they can 24 eventually pass.</p>	<p style="text-align: center;">Page 148</p> <p>1 marked for identification as 2 Exhibit NO. 57.) 3 MS. HOLLAND: So, Dr. 4 Thomas, I want to remind you that 5 you are still under oath, and I 6 just want to put on the record 7 that in front of each of us, in 8 front of Dr. Thomas, myself and 9 Ms. McEnroe as well as the 10 stenographer we have a binder of 11 exhibits that are tabbed and 12 numbered 1 through 56. 13 In addition to those 14 exhibits, Dr. Thomas has brought 15 some items with him that we have 16 collectively labeled Exhibit 57 17 and will be using those numbers 18 for reference throughout the 19 deposition and have been using 20 those numbers throughout the 21 deposition to refer to different 22 documents. 23 THE WITNESS: Okay. 24 BY MS. HOLLAND:</p>
<p style="text-align: center;">Page 147</p> <p>1 Q. So everyone eventually is 2 qualified to practice medicine? 3 A. You do not need to go to med 4 school to pass a medical school exam. If 5 you take out your Kaplan medical books 6 and study on your own, you can pass an 7 exam. It's like any other civil service 8 exam. The clinical aspect, that is 9 something you learn in the clinical 10 setting. So do I believe that anybody 11 continuously studying, studying, studying 12 eventually will pass an exam, I believe 13 so. 14 Q. And by your measure, in your 15 words, if someone passes the exam, 16 they're qualified to practice medicine? 17 A. I believe so. 18 Q. Okay. 19 MS. MCENROE: Let's go off 20 the record. 21 (A discussion was held off 22 the record.) 23 (A lunch break was taken.) 24 (Whereupon, a document was</p>	<p style="text-align: center;">Page 149</p> <p>1 Q. With that in mind, Dr. 2 Thomas, could you turn with me to Exhibit 3 7? 4 A. (Witness complies with 5 request.) 6 Q. Do you recognize Exhibit 7? 7 A. Yes, I do. 8 Q. What is it? 9 A. It's an e-mail from Susan 10 Detich to myself. 11 Q. And I see on the to line it 12 says manu.thomas.31@gmail. Is that you? 13 A. That is me. 14 Q. Do you go by the name Manu? 15 A. Yes, I do. 16 Q. And this e-mail was sent by 17 Susan Detich to you on what date? 18 A. July 27, 2009. 19 Q. And turning to the next page 20 of Exhibit 7, do you recognize this part 21 of the document? 22 A. Yes, I do. 23 Q. What is it? 24 A. This is a letter sent from</p>

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<p>1 Susan Detich to myself. 2 Q. On what date? 3 A. July 27th, 2009. 4 Q. And did you receive this 5 letter? 6 A. Yes, I did. 7 Q. Now, that was on -- that was 8 sent to you on July 27th, 2009. At that 9 point you were registered to take Step 3. 10 Is that right? 11 A. I had registered for Step 3. 12 My registration, I believe, was not 13 completed because I received this letter. 14 Q. And this letter basically 15 informed you that your scores on the Step 16 2 CK exam from December 31st, 2007 were 17 under investigation? 18 A. That is correct. 19 Q. Turning with me to Exhibit 20 8, please. Do you recognize this? 21 A. This seems to be an e-mail 22 from me to Ms. Detich in August. 23 Q. And in this e-mail you 24 acknowledge the receipt of the letter</p>	<p>1 conducted an investigation? 2 A. No. No. At no time did I 3 conduct an investigation. 4 Q. And you ask in this letter 5 about halfway down in this e-mail: At 6 this time I would like to know what the 7 specifics are of the root of your 8 investigation. 9 A. That's correct. 10 Q. And you also say that you 11 sat with the FBI for almost three hours 12 in May 2008 regarding Optima and its 13 business plan. You were as cooperative 14 as you could be and you were already 15 ECFMG certified. 16 A. That is correct. 17 Q. During that three-hour 18 meeting with the FBI, what did they ask 19 you? 20 A. They asked me everything 21 from the daily activities of the day, 22 what students did from the time they got 23 in 'til the time they left, what my 24 function was on a daily basis. They</p>
<p style="text-align: center;">Page 151</p> <p>1 from July 27th, 2009, correct? 2 A. That is correct. 3 Q. And then you have some 4 questions regarding the allegations and 5 your own investigation of the activities 6 regarding NBME and Optima? 7 A. Yes. 8 Q. What was your own 9 investigation? 10 A. I believe I'm referring to 11 the FBI, sitting with the FBI and then me 12 given the timeline from which I had taken 13 the exam at the appointed time where they 14 finally told me there was a question with 15 my examination. 16 Q. So when you say my own 17 investigation, you mean what you perceive 18 to be an investigation into you and your 19 conduct? 20 A. Yeah. Investigation in the 21 terms of my timeline of the activities 22 that took place leading up to the letter 23 that came in. 24 Q. You don't mean that you</p>	<p style="text-align: center;">Page 153</p> <p>1 asked regarding the server, access to the 2 server, where the IT specialist was who 3 was handling the server. They asked me 4 questions regarding the bank. 5 Q. The question bank, you mean? 6 A. The question bank. They 7 asked me some background about Suliman, 8 about how students came to know about the 9 place, just all basic stuff. A lot of it 10 was focused on the server and the 11 questions. 12 Q. Did they interview anyone 13 else while you were there? 14 A. I was not there when the FBI 15 originally came. I was actually out on 16 an interview in the city for a job. I 17 got a call as I was leaving the interview 18 to come back to the center. 19 Q. Who called you? 20 A. My girlfriend at the time 21 called me. 22 Q. So she was there as well? 23 A. She was there at that time. 24 Q. Was she an employee, too?</p>

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<p>1 A. No, she was not.</p> <p>2 Q. So you went back to the 3 center. You answered the FBI's 4 questions. Was anyone else being 5 questioned during that time?</p> <p>6 A. When I got there, anyone 7 they had questioned had already been 8 done.</p> <p>9 Q. And do you know who else 10 they questioned?</p> <p>11 A. I don't know if they 12 formally questioned anyone or if they 13 just randomly were talking to students, 14 so I can't really say to who or what 15 happened before I got there.</p> <p>16 Q. Is it fair to say that no 17 one else was subjected to the kind of 18 long-term extensive investigation or 19 questioning as much as you were?</p> <p>20 A. Again, I don't know. I 21 couldn't confirm that.</p> <p>22 Q. How many FBI agents were 23 there involved in the raid?</p> <p>24 A. There was -- I don't know</p>	<p>1 to come in, they would have just come in 2 through the front, I assume. The only 3 locked door is really the one that goes 4 into his office from the outside.</p> <p>5 Q. Suliman's office?</p> <p>6 A. Dr. Suliman's office.</p> <p>7 Otherwise, it's an open entrance going 8 in. So I don't -- I didn't see anything 9 broken, to tell you the truth. The 10 server was out in the casing, and they 11 were trying to break into that. That's 12 probably the only thing I saw that may 13 have been...</p> <p>14 Q. Can you tell me the name of 15 the IT person from Optima?</p> <p>16 A. I know him as Adrian. He's 17 from abroad.</p> <p>18 Q. Abroad where?</p> <p>19 A. I believe it's Romania, if 20 I'm not mistaken.</p> <p>21 Q. Do you know his last name?</p> <p>22 A. I do not know his last name.</p> <p>23 Q. Did you have a cell phone 24 number for him?</p>
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<p>1 how many were there at the beginning. I 2 heard there were more there before I got 3 there. When I got there I believe it was 4 maybe less than five; one, maybe two 5 talking to me and then there was a couple 6 of IT FBI agents trying to get into the 7 server.</p> <p>8 Q. Did they ask for your 9 assistance in getting into the server?</p> <p>10 A. They asked me and I had 11 nothing to offer because I had nothing to 12 do with the server.</p> <p>13 Q. What about your IT person 14 who was there?</p> <p>15 A. He wasn't to be found.</p> <p>16 Q. So when the FBI arrived at 17 Optima, tell us what that was like. What 18 happened?</p> <p>19 A. I wasn't there.</p> <p>20 Q. So when you did get there, 21 were there any doors broken down?</p> <p>22 A. Not visibly that I could 23 tell. The center is not locked during 24 the day. It's wide open, so if they were</p>	<p>1 A. Well, he was visiting in the 2 country at the time. He's not from the 3 U.S. He's actually from abroad, so at 4 that time I did have a local number that 5 he was using temporarily.</p> <p>6 Q. Did you call it to help the 7 FBI get him?</p> <p>8 A. I tried calling. No answer.</p> <p>9 Q. Turn with me, if you will, 10 to Exhibit 9. This is a series of 11 e-mails from August of 2009, and do you 12 recognize these e-mails?</p> <p>13 A. This is her response to my 14 response.</p> <p>15 Q. And do you see at the top 16 there, that first e-mail sent August 17 28th, 2009, 11:28 a.m. Who wrote that 18 e-mail?</p> <p>19 A. That would be me.</p> <p>20 Q. And it says: I appreciate 21 the quick reply and I look forward to 22 hearing the results of the USMLE 23 Committee on Score Validity and clearing 24 my name of any suspicious indeterminate</p>

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<p>1 score or irregular behavior. I want to 2 again state that I'm happy to prove that 3 I have no affiliation with Optima 4 University, its owner or its proprietary 5 information.</p> <p>6 Do you see that?</p> <p>7 A. Uh-huh.</p> <p>8 Q. When you said that you had 9 no affiliation with Optima University, 10 you said that you were happy to prove 11 that. What were you prepared to do to 12 prove that?</p> <p>13 A. That I would show my history 14 of not being there. The only time I was 15 there was as a student as well as the 16 time -- the short time that I had worked 17 there.</p> <p>18 Q. And then later on that day 19 Susan Detich writes to you from the NBME: 20 Dr. Thomas, you will receive formal 21 notification within the next week or so, 22 and your performance on the December 2007 23 Step 2 CK has been referred to the USMLE 24 Committee on Score Validity.</p>	<p>1 enclosed policies and procedures. Is 2 that right?</p> <p>3 A. At the very bottom, yes.</p> <p>4 Q. And I want you to flip with 5 me to Exhibit 3 quickly. Are these the 6 policies and procedures that were 7 attached to that letter?</p> <p>8 A. I believe so.</p> <p>9 Q. Let's turn now to Exhibit 10 11. Do you recognize this?</p> <p>11 A. Another e-mail from me to 12 Ms. Detich.</p> <p>13 Q. And I notice that you signed 14 your name Mathew Thomas, Jr., M.D., MHSA. 15 What is MHSA?</p> <p>16 A. That's a master's in health 17 service administration.</p> <p>18 Q. Where did you earn your 19 master's in health services?</p> <p>20 A. Saint Joseph's College of 21 Maine. That's what I was doing, the 22 master's, when I was up in Maine for two 23 semesters.</p> <p>24 Q. So that was before you went</p>
<p style="text-align: center;">Page 159</p> <p>1 Turn with me, if you will, 2 to Exhibit 10. Do you recognize the 3 first page of Exhibit 10?</p> <p>4 A. This is an e-mail from Susan 5 Detich to myself.</p> <p>6 Q. And how about the second 7 page and the rest of the exhibit?</p> <p>8 A. This is the official -- this 9 is the official letter that I received 10 from Susan Detich which broke down my 11 history with the exam as well as what 12 they said was the calculations about 13 exposed versus unexposed in my exam and 14 then giving me the options. I believe 15 they gave me the options at the end.</p> <p>16 Q. And how many pages is the 17 letter that you were sent?</p> <p>18 A. This seems to be five.</p> <p>19 Q. Attached to this 20 letter -- let me find the paragraph here. 21 See at the bottom, it's a small number 22 NBME 201?</p> <p>23 A. Yes.</p> <p>24 Q. It says, as explained in the</p>	<p style="text-align: center;">Page 161</p> <p>1 to medical school or after?</p> <p>2 A. No. That was concurrent 3 with St. Matthew's University.</p> <p>4 Q. Let's turn to Exhibit 12. 5 Again, do you recognize this?</p> <p>6 A. This is a letter from Susan 7 Detich to myself and Janet Carson carbon 8 copied on it.</p> <p>9 Q. And this is discussing your 10 inability to open the pdfs and they're 11 mailing them to you, right?</p> <p>12 A. That is correct.</p> <p>13 Q. Let's go to No. 13. No. 13, 14 again, we have a series of e-mails. Do 15 you recognize these e-mails?</p> <p>16 A. Yeah. This is in response 17 to Susan Detich's e-mail regarding the 18 pdfs not being able to be opened.</p> <p>19 Q. And you indicate that she 20 can mail the -- FedEx the documents to 21 your parents' house?</p> <p>22 A. That's correct.</p> <p>23 Q. And that's the same address 24 that you live at now, right?</p>

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<p>1 A. That is correct. 2 Q. Do your parents still live 3 there? 4 A. Yes, they do. 5 Q. So your parents and your 6 wife and kids live there? 7 A. Now, yeah. 8 Q. Let's turn to Exhibit 14. 9 And this is a FedEx tracking slip. Do 10 you notice the recipient information 11 about halfway down? 12 A. To myself. 13 Q. Let's turn to 15. Exhibit 14 15 is also a series of e-mails. Do you 15 recognize them? 16 A. Yes. This is, again, my 17 response to Susan Detich after she said 18 she's going to mail me the -- Federal 19 Express the letter to me. 20 Q. And you write to Susan 21 Detich: I'm in receipt of the FedEx 22 package today with the accusations 23 against me and the validity of my Step 2 24 score. It will be my pleasure to defend</p>	<p>1 deadline for submission of written 2 materials and/or notification that you 3 wish to appear in person is November 6th, 4 2009. 5 A. That is correct. 6 Q. Let's go to 17, and this is 7 an e-mail in which you say: Thank you. 8 I will notify you on a timely basis. 9 Is that right? 10 A. That's correct. 11 Q. Let's go to 18. So for No. 12 18, reading it from the bottom to the 13 top, on October 12th, 2009, 9:32 p.m., 14 you are writing with regard to the 15 analysis that was provided to you. Is 16 that right? 17 A. Yes. 18 Q. And you say: As per the 19 letter sent to me dated September 15th, 20 2009, it was stated that 32 percent of 21 test items that appeared on the Step 2 CK 22 form taken by me in December 2007 and 23 that was used in, quote -- I'm sorry, 24 that was, quote, used in scoring</p>
<p style="text-align: center;">Page 163</p> <p>1 my stance on the validity of my score as 2 I still stand steadfast on my original 3 letter to you. 4 A. That's correct. 5 Q. In the second paragraph you 6 write: Unfortunately, as I mentioned in 7 the previous e-mail, I am supposed to go 8 abroad, and I'm unsure if I can make the 9 October 14th date. 10 What were you going abroad 11 for? Do you remember? 12 A. 2009, I do not remember, to 13 tell you the honest truth. 14 Q. Let's turn to 16. This is 15 an e-mail, an e-mail string. You see the 16 first e-mail there -- 17 A. Yes. 18 Q. -- from Susan Detich? 19 Is that an e-mail that you 20 received? 21 A. Yes, it is. 22 Q. So it says: Dear Dr. 23 Thomas, I have rescheduled this matter 24 for review on December 16th, 2009. The</p>	<p style="text-align: center;">Page 165</p> <p>1 form, end quote, may have been subject to 2 unauthorized reproduction and 3 dissemination through Optima prior to my 4 exam date. 5 Then you ask for the number 6 of total questions that were used in 7 grading the exam. Is that right? 8 A. That's correct. 9 Q. And then at the top of -- at 10 the top of the e-mails Susan Detich 11 writes back to you: Dear Dr. Thomas, my 12 sincere apologies for my delay in 13 responding to your earlier e-mail 14 inquiries. 288 of the items from the 15 exam that was taken by you were scored. 16 And then she says: Because 17 I did not respond more promptly to your 18 requests, the deadline for your 19 submission of any written information 20 will be extended until December 4th, 21 2009? 22 Is that right? 23 A. That's correct. 24 Q. So at that point, November</p>

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<p>1 11th, 2009, you knew how many of the test 2 items were scored?</p> <p>3 A. That's correct.</p> <p>4 Q. Exhibit 19, this appears to 5 be an e-mail scheduling your review with 6 the Committee on Score Validity. Is that 7 right?</p> <p>8 A. That's correct.</p> <p>9 Q. And it just states that the 10 date for your review will be December 11 16th, 2009?</p> <p>12 A. Excuse me?</p> <p>13 Q. December 16th, 2009 is the 14 date?</p> <p>15 A. That's correct.</p> <p>16 Q. About the middle of that 17 page there you write: Ms. Carson, what 18 are the committee dates and times 19 available in December, and can I schedule 20 a phone conversation with you at some 21 point off the record, if possible?</p> <p>22 What was your hope to 23 discuss off the record with Ms. Carson?</p> <p>24 A. I think I just wanted to</p>	<p>1 your appearance before the USMLE's 2 Committee on Score Validity?</p> <p>3 A. Yes.</p> <p>4 Q. Around the time that the 5 Committee on Score Validity appearance 6 was being scheduled, do you remember 7 having a phone call with Ms. Carson?</p> <p>8 A. A phone call with Ms. Carson 9 regarding...?</p> <p>10 Q. Do you remember speaking to 11 Ms. Carson on the phone?</p> <p>12 A. I don't remember. I've had 13 conversations on the phone with her. I 14 don't remember if it was around the time 15 of the actual committee hearing.</p> <p>16 Q. Do you remember actually 17 calling Ms. Carson not only on the work 18 phone but also on her home phone?</p> <p>19 A. I called back the number she 20 had called me from. I didn't know what 21 number that was.</p> <p>22 Q. So Exhibit 21, do you 23 recognize Exhibit 21?</p> <p>24 A. This is the transcript from</p>
<p style="text-align: center;">Page 167</p> <p>1 find out exactly what it is that they 2 were looking for, and I think part of me 3 wanted to know whether or not they were 4 trying to find out all the students who 5 went there, but she never brought it up 6 so I never brought it up.</p> <p>7 Q. So you were worried that 8 they were going to use your appearance 9 before the Committee on Score Validity to 10 find out more information about Optima?</p> <p>11 A. Well, I knew they'd probably 12 bring up Optima. I was under the 13 impression that Optima questions would 14 come up.</p> <p>15 Q. Were you surprised when more 16 Optima questions didn't come up?</p> <p>17 A. No. I wasn't surprised 18 either way.</p> <p>19 Q. Let's go to Exhibit 20. So 20 this exhibit contains two e-mails that 21 appear to be the same e-mail from Ms. 22 Babcox, B-A-B-C-O-X?</p> <p>23 A. That's correct.</p> <p>24 Q. And that's just scheduling</p>	<p style="text-align: center;">Page 169</p> <p>1 my hearing.</p> <p>2 Q. Dr. Thomas, you indicated a 3 few times earlier that throughout the 4 Committee on Score Validity meeting, Ms. 5 Carson referred to the analysis that was 6 provided to you as an observation as 7 opposed to an analysis?</p> <p>8 A. No. I stated that she had 9 told me in prior conversations that it 10 was an observation, not an analysis. She 11 did not say it within this hearing, but 12 she did not rebut.</p> <p>13 Q. She did not rebut what?</p> <p>14 A. That I claimed that she 15 called it an observation.</p> <p>16 Q. Can you show me in this 17 hearing where you said that it was an 18 observation -- where you say that she 19 said it was an observation?</p> <p>20 A. Sure.</p> <p>21 Q. Maybe if I can help, Dr. 22 Thomas, if you look at small page 16, 23 line 12?</p> <p>24 A. Yes. That's exactly where</p>

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<p>1 it is.</p> <p>2 Q. So you say -- I'm just going 3 to start at the top of that paragraph 4 with line 1. "Ms. Carson, if I could get 5 some kind of" -- this is your recalling a 6 prior conversation?</p> <p>7 A. Yes.</p> <p>8 Q. "Ms. Carson, if I could get 9 some kind of statistical analysis to show 10 what the question basis was. That was a 11 big major thing to me. For me, I'm here 12 at a hearing with the court reporter. I 13 was allowed to have counsel. I'm being 14 sworn under oath, and I said give me some 15 discovery as to the data against me so 16 that I can see what you're going by. And 17 she said to me, and quote if I'm wrong, 18 she said that this is not a statistical 19 analysis, this is an observation.</p> <p>20 These are observations made 21 by individuals in the National Board. 22 I asked her for their qualifications. She 23 said, we don't check their CVs. I said, 24 let me get information for the board.</p>	<p>1 Q. Now, you're basing your 2 position that that was an observation on 3 the fact that Ms. Carson called it an 4 observation?</p> <p>5 A. She was very adamant that it 6 was an observation.</p> <p>7 Q. If she had said that it was 8 a statistical analysis, would it have 9 been a statistical analysis?</p> <p>10 A. No. Then I would have 11 expected her to tell me who did the 12 statistical analysis and move from there.</p> <p>13 Q. So the fact that she said 14 that it was an observation was not 15 important?</p> <p>16 A. It was important considering 17 she's a secretary speaking on behalf of 18 the NBME and anything she says basically 19 would be her speaking for them.</p> <p>20 Q. So moving onto Exhibit 22. 21 This is an e-mail from Susan Detich to 22 you. Is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. And she says: The committee</p>
<p>1 I'll contact them to find out their 2 qualifications, and she says, we're not 3 going to give that information to you."</p> <p>4 And then you later say: 5 "For me, if you had stratified and told 6 me, well, you know what, on the exposed 7 versus the unexposed, medicine, OB-GYN, 8 surgery, pediatrics and psych, these are the 9 types of questions, and by far everything 10 is equal across-the-board -- 11 across-the-board you -- you had scored 12 lower or higher, I could see."</p> <p>13 Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. So your recollection was 16 that you told the Committee on Score 17 Validity that Ms. Carson had told you 18 that it was an observation --</p> <p>19 A. Yes, it was.</p> <p>20 Q. -- right?</p> <p>21 And your recollection is 22 correct because I just read that from the 23 transcript, right?</p> <p>24 A. Yes.</p>	<p>1 found it could not certify the validity 2 of your Step 2 CK scores and has deemed 3 them indeterminate unless and until you 4 pass a validating exam, right?</p> <p>5 A. That's correct.</p> <p>6 Q. And then she goes on to say: 7 Once you receive the committee's formal 8 decision letter, you will have six months 9 during which you may take the validating 10 exam. Is that right?</p> <p>11 A. That is correct.</p> <p>12 Q. Let's go to Exhibit 23. You 13 write: Please send all documents to the 14 PO Box. I will most likely appeal. 15 Please realize that I will be out of the 16 country possibly until February 10th. 17 Please schedule me for the next appeal 18 committee date.</p> <p>19 Now, at that point -- what 20 was the appeal committee that you were 21 hoping to appear before?</p> <p>22 A. Well, I didn't realize at 23 that point that the appeal committee is 24 not an in-person committee. I was under</p>

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<p>1 the impression it would be similar to the 2 other committee but possibly with other 3 people at a higher level. 4 Q. I see. Okay. 5 So Exhibit 24, do you 6 recognize this exhibit? 7 A. Yes. This is the -- I 8 believe the verdict that the Committee on 9 Score Validity came up with after my 10 hearing in December. 11 Q. Well, this is actually a 12 letter, right? 13 A. A letter, yes, stating their 14 stance. 15 Q. And how many pages is this 16 letter? 17 A. It says four. 18 Q. Four pages, and about midway 19 through the first page it says: During 20 the course of its deliberations the 21 committee discussed the following. 22 A. Yes. 23 Q. There are, I think, one, 24 two, three, four, five, six, seven,</p>	<p>1 on those two sets of items. Is that 2 right? 3 A. That's what's written here. 4 Q. In the next bullet point it 5 talks about the fact that on items that 6 were believed to have been exposed, you 7 spent an average of 59 seconds whereas on 8 items that were not believed to have been 9 exposed, you spent an average of 73 10 seconds? 11 A. That's what's written, yes. 12 Q. And, again, it talks about 13 the comparison group which spent an 14 average of 73 seconds on exposed and 76 15 seconds on nonexposed items. Is that 16 right? 17 A. Yeah. That's what's written 18 here. 19 Q. The next bullet point 20 discusses the fact that the committee 21 took into account your personal 22 appearance and the things that you stated 23 and testified to in front of that 24 committee and that they took into</p>
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<p>1 eight -- eight bullet points of pieces of 2 information that the committee 3 considered? 4 A. Yes. 5 Q. And among those eight bullet 6 points, the letter discusses that 32 7 percent of the test items that appeared 8 on the Step 2 CK form taken by you in 9 December 2007 and that were used in 10 scoring that form may have been subject 11 to unauthorized reproduction and 12 dissemination through Optima. 13 A. May have been. 14 Q. Right. And the next part 15 says: Your percent score on those scored 16 items believed to have been exposed was 17 higher than your percent scored correct 18 on items for which there is no current 19 evidence of exposure, right? 20 A. That's what's written. 21 Q. And it says: The average 22 performance of a comparison group of 23 other examinees who took the same form 24 shows greater consistency in performance</p>	<p>1 account. Is that right? 2 A. That's correct. 3 Q. And then the last eight 4 paragraphs of the letter talk about the 5 committee's decision and their 6 consideration of all the information 7 available to them and their decision not 8 to certify the validity of your passing 9 result. Is that right? 10 A. That's correct. 11 Q. Now, also, in this letter, 12 the committee discusses the procedure of 13 taking a validating exam? 14 A. Yes. 15 Q. When did you take that 16 validating exam? Do you remember? 17 A. I believe September 2011. 18 Q. And what did you do to 19 prepare for the validating exam? 20 A. Much the same, looked at 21 some question banks, some old notes, 22 books but nothing as intense as I had 23 what I was studying for in 2007. 24 Q. Did you utilize the services</p>

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<p>1 of Optima to study for the validating 2 exam?</p> <p>3 A. No, I did not. 4 Q. Why not? 5 A. It was closed. 6 Q. Exhibit 25 is an e-mail 7 saying: Please put me on the calendar 8 for the appeal. Is that sent by you? 9 A. Yes, it is. 10 Q. Exhibit 26. In Exhibit 11 26 -- this is a string of e-mails -- you 12 are asking Susan Detich if it's possible 13 to get an extension on the appeal 14 process. You write: I was distracted 15 with some issues and thought best to 16 inquire.</p> <p>17 What was going on at that 18 point?</p> <p>19 A. I don't exactly remember. 20 Actually, that might have been around the 21 time from the arrest and everything 22 related to that.</p> <p>23 Q. And then Ms. Detich 24 writes -- or had written previous:</p>	<p>1 A. Okay. 2 Q. No, 27, Exhibit 27 is also a 3 series of e-mails, and in Exhibit 27 on 4 May 25th, 2010, this was an e-mail from 5 Emilie Babcox to Janet Carson and Susan 6 Detich, so you were not a party to this 7 e-mail, right? 8 A. No. 9 Q. But I am going to ask you 10 whether you remember leaving a voicemail 11 for Emilie Babcox that there was a death 12 in your family and that you'd like to 13 postpone your appeal? 14 A. Most likely, I did. 15 Q. And you also left a 16 different e-mail address to use than the 17 one that you had been using with the 18 committee before? 19 A. That's correct. 20 Q. Why did you change your 21 e-mail address at that point? 22 A. I don't know. 23 Q. Let's go to No. 28. Do you 24 recognize Exhibit 28?</p>
<p>1 Information on the appeal process. The 2 appeal is a review of the written record 3 so your appeal would consist of the 4 following: All of the materials reviewed 5 by the Committee on Score Validity, the 6 stenographic record of your personal 7 appearance, the committee's decision 8 letter and your own written appeal. 9 A. That's correct. May I just 10 ask why this says redacted and what that 11 means? 12 Q. Redacted means that there's 13 information from this document that was 14 removed from it. 15 A. For any specific reason? 16 Q. In this case, the portion of 17 the information that was redacted was the 18 information that was forwarded to me. 19 Like, in other words, just the headers of 20 the e-mail. 21 A. I understand. Okay. 22 Q. Just for ease of reading so 23 that everyone can tell when it was 24 originally sent.</p>	<p>1 A. This was my appeal that I 2 submitted. 3 Q. So you wrote this document? 4 A. Yes, I did. 5 Q. Go to the last page with me, 6 if you would? 7 A. (Witness complies with 8 request.) 9 Q. Do you see a date on this? 10 A. June 24th, 2010. 11 Q. Is that the date that you 12 submitted it? 13 A. Yes. 14 Q. And did you submit this as 15 part of your appeal? 16 A. Yes. 17 Q. That was your intention in 18 submitting this letter? 19 A. This was number four on the 20 list that Susan Detich had said would go 21 towards the committee. 22 Q. Let's go to 29. So do you 23 recognize Exhibit 29? 24 A. This is the letter that came</p>
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<p>1 back after my appeal was submitted, their 2 decision not to overturn the original 3 decision against my exam validity. 4 Q. And at the end of this 5 letter, on the page that's numbered NBME 6 124, it says at the bottom: Upon full 7 consideration of all of the information 8 available, the Composite Committee found 9 that the Committee on Score Validity 10 acted in compliance with applicable USMLE 11 policies and procedures and did not make 12 a decision that was clearly contrary to 13 the weight of the evidence before it. 14 Therefore, the Composite 15 Committee concluded that the 16 determination of the Committee on Score 17 Validity will stand. Your Step 2 CK 18 scores remain classified as 19 indeterminate. 20 That wasn't the final step, 21 though, in the process, was it? 22 A. For who? 23 Q. For you? 24 A. No.</p>	<p>1 A. That's correct. 2 Q. Thirty-two, about midway 3 through the first page you write: Ms. 4 Buono, I would like to know how to obtain 5 an extension to my February 25th, 2011 6 validating exam deadline. I have had 7 many personal issues and will not be 8 prepared by then. Other students have 9 gone well past the six-month period, and 10 I would like the same courtesy extended 11 to me. Please advise. 12 A. That is correct. 13 Q. I have a few questions about 14 that. 15 A. Sure. 16 Q. What were the many personal 17 issues that you had? 18 A. I don't remember exactly 19 what they were. 20 Q. And when you said other 21 students have gone well past the 22 six-month period and you would like the 23 same courtesy extended to you, what other 24 students were you referring to?</p>
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<p>1 Q. The next paragraph says: 2 The Step 2 CK validating examination 3 further discussed in Ms. Detich's letter 4 to you of February 17th, 2010 must be 5 taken within six months of the date of 6 this letter; i.e., on or before February 7 25th, 2011. 8 You did have until February 9 25th, 2011 to take the validating exam, 10 right? 11 A. Yes, I did. 12 Q. We've been over Exhibit 30, 13 so I think we can go to 31. In No. 31, 14 this is an e-mail from Amy Buono to you. 15 Is that correct? 16 A. That's correct. 17 Q. And she says: Dear Dr. 18 Thomas, please let me know what 19 three-month eligibility period you would 20 like that would allow you to schedule 21 your exam prior to the February 25th, 22 2011 validating exam deadline. I will 23 then request a scheduling permit be 24 generated and sent to you via e-mail.</p>	<p>1 A. I don't remember exact 2 names, but there were students that had 3 taken the exam well after the six months. 4 Q. And in response to your 5 request for an extension, at the top of 6 this page, first page of Exhibit 32, Amy 7 Buono writes back: Dear Dr. Thomas, the 8 USMLE Composite Committee has given 9 permission to allow you the option of 10 taking your validating exam up to one 11 full year after the date on the decision 12 letter. That letter was dated August 13 25th, 2010. Therefore, you have until 14 August 24th, 2011 to test. And then 15 again she says: Please let me know what 16 three-month eligibility period you would 17 like. 18 A. That's correct. 19 Q. Thirty-three. In this 20 e-mail Amy Buono says: Dear Mat, please 21 try to give plenty of notice of your 22 intended eligibility period as during 23 busy times it may take a while for the 24 permit to be generated.</p>

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<p>1 A. Correct.</p> <p>2 Q. Exhibit 34, Amy Buono</p> <p>3 says -- I'm sorry, midway through the</p> <p>4 page, June 27th, 2011 so about a month</p> <p>5 and a half before your deadline for</p> <p>6 validation you write: Amy, as I approach</p> <p>7 my deadline I need to be registered for</p> <p>8 an exam date. I am going through some</p> <p>9 medical issues right now. What happens</p> <p>10 if surgery or treatment doesn't allow me</p> <p>11 to take the exam in time? Mat.</p> <p>12 What were the medical issues</p> <p>13 you were going through?</p> <p>14 A. Does that stay confidential?</p> <p>15 MS. McENROE: Let's go off</p> <p>16 the record.</p> <p>17 (A discussion was held off</p> <p>18 the record.)</p> <p>19 BY MS. HOLLAND:</p> <p>20 Q. Just confirming, Dr. Thomas,</p> <p>21 that your answer to the following</p> <p>22 question will be kept confidential.</p> <p>23 What were the medical issues</p> <p>24 that you were going through at that time?</p>	<p>1 validating exam on or before August 24th,</p> <p>2 2011 and wish to test after that date,</p> <p>3 you may follow the standard registration</p> <p>4 instructions for Step 2 CK as noted on</p> <p>5 the ECFMG website.</p> <p>6 A. That's correct.</p> <p>7 Q. No. 35. You respond to that</p> <p>8 e-mail on July 6th by saying: I</p> <p>9 appreciate the response. Please start</p> <p>10 the process so I can reserve a test date.</p> <p>11 And she writes back: Dear</p> <p>12 Dr. Thomas, please tell me which</p> <p>13 three-month eligibility period you would</p> <p>14 like so I may order your validating exam</p> <p>15 scheduling permit.</p> <p>16 A. That's correct.</p> <p>17 Q. No. 36, you respond: Since</p> <p>18 I have to take it by August 24th, 2011,</p> <p>19 it has to be July, August, September.</p> <p>20 And then Ms. Buono writes</p> <p>21 back: I will place the order for your</p> <p>22 permit. As soon as it's available I will</p> <p>23 send it to you via e-mail.</p> <p>24 A. That's correct.</p>
<p>1 A.</p> <p>4 (REDACTED)</p> <p>8 Q.</p> <p>9 A.</p> <p>10 MS. McENROE: So those</p> <p>11 previous two responses are the</p> <p>12 only portion we've agreed to keep</p> <p>13 confidential. Agreed?</p> <p>14 THE WITNESS: Agreed.</p> <p>15 BY MS. HOLLAND:</p> <p>16 Q. And then Amy Buono writes</p> <p>17 back on July 6th: Dear Dr. Thomas, upon</p> <p>18 careful consider of your request we</p> <p>19 cannot grant you an additional extension.</p> <p>20 She says: You must take the validating</p> <p>21 examination on or before August 24th,</p> <p>22 2011.</p> <p>23 And then she says: If for</p> <p>24 any reason you do not take your</p>	<p>1 Q. No. 37 we can skip. No. 38</p> <p>2 we can skip. No. 39, you wrote back and</p> <p>3 said -- on July 19th, 2011 you wrote:</p> <p>4 Amy, my final date to take the exam is</p> <p>5 coming on one month. I need that permit</p> <p>6 to get a spot on the last possible day.</p> <p>7 Please advise on how long it will take.</p> <p>8 And Amy Buono writes back: I will check</p> <p>9 into it.</p> <p>10 Then you write back to her:</p> <p>11 Good afternoon, Amy. I am now under one</p> <p>12 month from when I have to take my exam,</p> <p>13 and I still don't have a testing permit.</p> <p>14 Please advise.</p> <p>15 And she indicates that she's</p> <p>16 unsure what's causing the delay and will</p> <p>17 check on it again for you.</p> <p>18 A. That's correct.</p> <p>19 Q. Now, what was your reason</p> <p>20 for requesting a permit on the last</p> <p>21 possible day?</p> <p>22 A. Well, given all the issues I</p> <p>23 was going through medically, I knew that</p> <p>24 I needed every last day which is why I</p>

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<p>1 originally asked for an extension of any 2 kind.</p> <p>3 Q. Turning to No. 40. On 4 August 2nd, 2011 Amy Buono says: Your 5 Step 2 CK validating exam scheduling 6 permit is attached. Again, my apologies 7 for the delay. As you are aware, 8 although the permit doesn't expire until 9 September 30th, you must test on or 10 before August 24th, 2011.</p> <p>11 And then you write back: 12 Amy, thanks. What happens if I can't get 13 a date on the 24th? Amy Buono writes: 14 If you have difficulty scheduling a test 15 date on or before the 24th, let me know 16 as soon as possible. Also, let me know 17 what area/test centers you are trying to 18 test in. Thanks, Amy.</p> <p>19 A. That's correct.</p> <p>20 Q. Forty-one, midway down the 21 page there you write: Amy, I checked for 22 locations near my current ZIP code and my 23 parents' ZIP code. None of the centers 24 have August 24th. The only</p>	<p>1 causing me not to be able to get a date 2 on the last possible date. If I move the 3 dates up, I feel I won't be ready and 4 given all the events that got me to this 5 point, I can't risk that.</p> <p>6 And then you ask what it 7 means when the committee says the score 8 is indeterminate. Will there be an 9 asterisk? And Amy writes back that there 10 are dates that are available and that no 11 score is reported in the event of an 12 indeterminate score.</p> <p>13 A. That's correct.</p> <p>14 Q. Forty-three, on August 7th 15 you write to Amy Buono: Amy, can you 16 please clarify something for me? I took 17 my exam on December 31st, 2007. If I'm 18 not mistaken, the passing score has 19 increased since then. I need to pass to 20 validate my exam. Does that mean I need 21 to get the pass score from December 31st, 22 2007 or the new standard?</p> <p>23 And she writes back: The 24 passing standard that existed at the time</p>
<p style="text-align: center;">Page 191</p> <p>1 available -- the ones available are 2 either September or next week. This is 3 why I wanted the permit earlier. Please 4 advise.</p> <p>5 She writes back: Hi, Mat. 6 I requested information on the test dates 7 and centers near the ZIP code you listed. 8 I know you would prefer to test as close 9 to the 24th as possible, but Prometric 10 cannot always accommodate the exact test 11 date an examinee is hoping for.</p> <p>12 I was able to find the 13 following test dates and locations that 14 are convenient to your ZIP code and lists 15 a few different, one, two -- five 16 different test options for you.</p> <p>17 A. Correct.</p> <p>18 Q. Forty-two, the bottom of the 19 first page, August 3rd you write that 20 there are medical issues that you're 21 dealing with. There's no way that you 22 can cut down on the days allowed to the 23 dates that were offered.</p> <p>24 You write: That delay is</p>	<p style="text-align: center;">Page 193</p> <p>1 you sat in 2007 is the one that will be 2 applied to you toward your validating 3 exam.</p> <p>4 A. That's correct.</p> <p>5 Q. Forty-four, August 17th, 6 bottom of the page: Amy, my aunt passed 7 yesterday, August 16th, 2011. You wanted 8 to know if you can get a one-week 9 extension for your exam date.</p> <p>10 At the top of the page you 11 write: Amy, I e-mailed with an extension 12 due to -- extension request due to a 13 death in the family, but I have not heard 14 any response as of yet, and then you give 15 the name of your aunt and the funeral 16 home where the funeral was.</p> <p>17 A. That's correct.</p> <p>18 Q. Had Amy asked for that 19 information or was that just something --</p> <p>20 A. I think I just offered to 21 show that it wasn't me just making up 22 stuff.</p> <p>23 Q. No. 45, in the middle of the 24 page Amy writes back she was out sick the</p>

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<p>1 past two days. She's sorry to hear about 2 your aunt, and she will grant you an 3 extension of one week. 4 A. That's correct. 5 Q. And then you write at the 6 top of the page: I will take it by 7 August 31st. 8 A. That's correct. 9 Q. No. 46, middle of the page: 10 Amy, is there a way to get exempt from 11 the Prometric change fee, \$117? 12 And at the top of the page 13 Amy Buono says: Dear Mat, I'm sorry. I 14 cannot waive a Prometric fee. However, I 15 would encourage you to let them know that 16 you're changing your test date due to a 17 death in the family. Perhaps they will 18 make an exception. I do not know, but it 19 wouldn't hurt to ask. 20 A. Correct. 21 Q. Forty-seven, you write: I 22 appreciate the feedback. I'm up every 23 night looking for a date. I may have to 24 fly out west to get one so saving that</p>	<p>1 bottom? 2 Q. Thirteen. Do you recognize 3 this document? 4 A. I saw it for the first time 5 when I was given the documentation in 6 discovery from NBME. 7 Q. Have you read it? 8 A. I have. 9 Q. And this is a comparison of 10 your Step 2 CK validation versus your 11 Step 2 CK indeterminate test, right? 12 A. That's correct. 13 Q. And the conclusion is that 14 the examinations were substantially the 15 same. Is that right? 16 A. That's his conclusion. 17 Q. Do you accept that 18 conclusion? 19 A. Not entirely. 20 Q. Why not? 21 A. One of the biggest issues 22 that I have is his media questions. I 23 think he specifically says on page NBME 24 00014, third paragraph down, number of</p>
<p>fee is big. A. Yes. Q. No. 48, middle of the page you write: Amy, I have a date available to me on September 3rd. Can I get the approval to book it? If not, I will try every day for a date by the 31st. So you were unable to find a test date by August 31st? A. Yeah. Once you get that close with Prometric, especially at the end of the month people are ending their eligibility period, everything gets booked up. Q. And Amy Buono says: The 3rd will be fine. If you are unable to find anything else, book it immediately. We'll skip No. 50. Actually, No. 50, let's go to the third page of No. 50. And at the bottom it has a small number NBME 13. A. You mean of 49? Q. Of 49. I'm sorry. A. What page number at the</p>	<p>items with pictures increased as well. In 2007, 14 of the 288, 4.9 percent, had associated pictures, CT exams, x-rays, electrocardiograms. The 2011 examination had 25 pictures, 8.9 percent. He writes that one would expect the images to increase on a medicine certifying examination to keep pace with technology and advances in assessment. My issue is that when I was told that I would take a validation, they said it would be comparable to 2007. In 2007 we did not have as many media, and they changed a lot of media type of questions which for someone who is not expecting it, that would affect the amount of time I had with the questions as well as the exam. Q. But you realize that the overall purpose of the USMLE is to make sure that you have all the knowledge and information necessary to practice medicine? A. I understand, but then I</p>

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<p>1 would have -- when I asked them whether 2 I'm getting an exam comparable to 2007 3 which is part of their policies and 4 procedures, then it should be comparable 5 to 2007. They should have told me I 6 would have the most updated exam at the 7 time of the validation exam which is not 8 what they told me.</p> <p>9 Q. Didn't you actually ask 10 whether the score would be the same as 11 2007?</p> <p>12 A. I asked about the score, but 13 I also clarified by -- I believe I was 14 informed on the phone; I forgot if it was 15 Detich or Amy, as to whether or not it's 16 comparable, but I took more of that from 17 the policies and procedures. I believe 18 it says the validation is comparable to 19 the exam that you took.</p> <p>20 Q. Okay.</p> <p>21 A. So that -- and especially 22 because the media which is what I 23 referred to earlier, media questions make 24 a big difference in terms of length of</p>	<p>1 about answering it correctly, I think 2 it's answering it correctly, including 3 having more time for other questions I 4 think all around. And since it's a 5 pass/fail and I get no kind of analysis 6 of where I did good or bad, I can't 7 really give a detailed response to that.</p> <p>8 Q. Now, the validating exam and 9 the exam, what the requirement is is that 10 they be comparable. Is that right?</p> <p>11 A. Comparable to the exam I 12 took is what --</p> <p>13 Q. Right. Comparable, not 14 exact?</p> <p>15 A. No. Not exact. I never 16 said exact.</p> <p>17 Q. Right. So you reject this 18 statistical analysis saying that they're 19 comparable?</p> <p>20 A. I believe that -- I have to 21 go through it one more time, but I cannot 22 say that it was as comparable as they 23 make it seem.</p> <p>24 Q. Well, specifically on page 1</p>
<p>1 time.</p> <p>2 Q. So you don't believe that 3 you should have been required to 4 have -- to be tested on any of the items 5 that were after 2007?</p> <p>6 A. Yeah. I don't believe I 7 should have gotten any questions that 8 were added in over those four years. I 9 believe I should have got comparable or 10 they should have given me fair warning 11 that the exam has changed so much and 12 you'll get the most recent type of exam, 13 because my studying was based on stuff 14 that I had studied from the past, not all 15 the new stuff, including, as I wrote in 16 my e-mail to her, even the wording 17 changed in terms of the way they 18 described certain questions and answers.</p> <p>19 Q. Do you have some reason to 20 believe that if you had answered more 21 media questions correctly that you would 22 have passed the validating exam?</p> <p>23 A. I can't say either/or 24 because I don't think it's so much only</p>	<p>1 of this, in the last paragraph it says: 2 By content specifications, the 2007 to 3 2011 examination were essentially the 4 same, in parentheses, 93.8 percent of the 5 items in the 2007 examination were from 6 the same specified content category as 7 items in the 2011 examination, and there 8 was only one new category.</p> <p>9 Then he goes on to write: 10 The 93.8 percent should actually be 11 higher since the number of items on the 12 examination decreased by eight. The 13 adjusted percentage of items that were 14 from the same content category is 96.4.</p> <p>15 A. Again, content category. 16 Very broad as to what he's talking about. 17 I can say content category. Again, I can 18 say it's depression and he can touch on 19 any portion. The exams and what is 20 focused on in terms of the review boards 21 and stuff focus on areas that they're 22 specific to. So if they change over the 23 years as to what their focus is or change 24 medications or change whatever it may be,</p>

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<p>1 it does make a difference. 2 Q. So 96.4 percent in your mind 3 is not comparable? 4 A. Again, I think I need more 5 specific as to what content category he's 6 talking about. Obviously, the subjects 7 do not change in terms of -- going back 8 to the score reports. It's still 9 medicine and pediatrics and OB-GYN and 10 psychiatry and all the -- so if that's 11 what he's considering content as a 12 general, then yeah. That's not going to 13 change. So like I said, I would need 14 clarification as to what specifically he 15 means by content category.</p> <p>16 Q. So, again, even though he's 17 applied -- this letter is nine paragraphs 18 long, correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And in this letter he talks 21 about the exam in its entirety, including 22 in the third paragraph very specific 23 types of questions and the content areas 24 like pituitary and hypothalamic</p>	<p>1 the comparability of the test form to the 2 test form that you originally took in 3 2007. Please be assured that there were 4 only minor differences in the focus of 5 the content between these two 6 examinations, and the two test forms are 7 comparable.</p> <p>8 Although the recent exam 9 included some relatively new testing 10 formats which required interpretation of 11 a small number of heart sounds, 12 pharmaceutical advertisements and medical 13 abstracts, your performance on these 14 formats did not have an impact on your 15 overall -- on your pass/fail outcome.</p> <p>16 For your information, your 17 examination was scored using the 18 pass/fail standard that was in effect at 19 the time of your 2007 administration, not 20 the current higher standard.</p> <p>21 So does that answer your 22 question as to the impact of those new 23 items?</p> <p>24 A. They, again, are saying</p>
<p>1 disorders, heat-related illness. It's 2 really a detailed analysis of those 3 examinations, right?</p> <p>4 A. Okay.</p> <p>5 Q. Well, I'm asking you.</p> <p>6 A. Well, he has a lot of 7 details. Again, like I said, I can only 8 say that he has details in here, so I 9 can't really compare based on what he's 10 comparing.</p> <p>11 Q. Well, what would allow you 12 to compare?</p> <p>13 A. Him sitting down here and 14 explaining to me line by line what he 15 means.</p> <p>16 Q. Let's go to No. 50. Do you 17 recognize No. 50?</p> <p>18 A. This seems to be -- this was 19 a validation exam results letter.</p> <p>20 Q. And you received this?</p> <p>21 A. Yes, I did.</p> <p>22 Q. In the third paragraph it 23 says: After taking the validating 24 examination you expressed a concern about</p>	<p>1 there are items here that were not on my 2 exam which was my first complaint. So if 3 I have never seen them and they show up 4 on my screen, they are going to hold me 5 back and hinder my moving forward.</p> <p>6 Secondly, if you are going 7 to tell me that my original exam cannot 8 be validated because I had exposure and 9 therefore was quicker, then the opposite 10 should be true; that if I'm hit with this 11 many questions that are not something I 12 prepared for, they would hold me back and 13 prevent me from finishing in a timely 14 manner.</p> <p>15 Q. So they should have given 16 you extra time because you weren't 17 cheating?</p> <p>18 A. No. They should have given 19 me an exam they told me I was going to 20 get which was the 2007 exam, not a 2011 21 exam.</p> <p>22 Q. So if they had given you a 23 2007 exam and scored it based on the 2007 24 standards, you're telling us that you</p>

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<p>1 would have been satisfied with that? 2 A. I would have been satisfied 3 with that. 4 Q. Let's go to 51. In this 5 string of e-mails you write with regard 6 to -- this is registering for -- after 7 you've not passed the validating exam, 8 registering for Step 2 CK over again, 9 right? 10 A. That's correct. 11 Q. And you say: The only other 12 question I had is if the USMLE is offered 13 between January 1st and January 11th, 14 when do I have to apply to get a 15 December, January, February block, right? 16 A. You jumped all the way to 17 the top. Okay. 18 Q. Yeah. At the top. 19 A. Okay. 20 Q. Is that right? You wanted 21 to get a December, January, February 22 block? 23 A. I had to because if you go 24 further, the seven-year rule takes into</p>	<p>1 that scores obtained on the validating 2 exam were not reported so no score report 3 or performance profile was available. Is 4 that right? 5 A. That's what's written. 6 Q. Your second question is 7 about whether all of your attempts stay 8 on your transcript or whether you get a 9 fresh transcript with new attempts. Is 10 that right? 11 A. That's correct. 12 Q. Your third question is if 13 you re-take the exam again, do you keep 14 the higher score or will it be treated 15 like a validating exam? 16 And Amy Buono writes back: 17 Yes. If you test again it will not be a 18 validating exam so whatever score you 19 achieve is the one that will be part of 20 your record? 21 Fourth question: Based on 22 the sixth attempt limit, does that mean I 23 get six new attempts for Step 2 starting 24 January 1st, 2013?</p>
<p style="text-align: center;">Page 207</p> <p>1 effect basically because my CS was taken 2 January 5th, I believe, 2005 and going 3 into 2012 would have hit me at my seven 4 years and then I would have to wind up 5 taking the CS over again if I didn't take 6 the Step 2 before then. 7 Q. Right. So you wanted to get 8 the last possible Step 2 CK block that 9 would still allow you to use your Step 1 10 score? 11 A. Yes. 12 Q. On the bottom of the first 13 page, Amy Buono writes: Dear Mat, 14 responses to your questions are in green. 15 These are questions that you 16 had asked after you learned that you 17 failed the validating exam -- 18 A. That's correct. 19 Q. -- right? 20 Your first question was 21 could you get an actual score report of 22 the validation exam and the subject 23 breakdown to see my weak areas? 24 And the answer to that was</p>	<p>1 And Amy Buono writes back: 2 No. It means if you had six or more 3 failed attempts at a particular Step, you 4 will be not allowed to submit an 5 application after January 1st, 2013 to 6 take that Step. 7 A. That's correct. 8 Q. And the next one you write, 9 next question: If I have to re-take Step 10 CS and Step 1 based on the seven-year 11 rule, is it a new set of six attempts or 12 do the old ones count against me? 13 And Amy Buono writes: No. 14 You will not be allowed a new set of six 15 attempts. See previous response. 16 A. Correct. 17 Q. Let's go to 52. Do you 18 recognize Exhibit 52? 19 A. This was me asking for -- to 20 relook into my case. 21 Q. And when did you submit this 22 letter? 23 A. At the end of December of 24 2012.</p>
	<p style="text-align: right;">53 (Pages 206 to 209)</p>

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<p>1 Q. It's a four-page letter. Is 2 that right? 3 A. That's correct. 4 Q. Let's go to 53. On page 5 53 -- or Exhibit 53 there's a string of 6 e-mails that are between Amy Buono and a 7 woman named Salvatrice Scerbo? 8 A. That's correct. 9 Q. Is Salvatrice Scerbo the 10 person that you told us about before that 11 you had consulted with about your case? 12 A. Yes, it is. 13 Q. Is she an attorney? 14 A. Yes, she is. 15 Q. Where does she work? 16 A. She's not working as an 17 attorney. She works as a compliance 18 officer. 19 Q. At St. Barnabas? 20 A. In the Bronx. 21 Q. And is she also the person 22 that attended the Rule 16 scheduling 23 conference with you? 24 A. She is.</p>	<p>1 page -- to Amy Buono: Good morning. I 2 hope you had a wonderful weekend and all 3 is well. Thank you again for reviewing 4 his file. I had another request from 5 Mathew. Is it possible for Mathew to 6 schedule a meeting with you and staff to 7 discuss his matter in person? 8 And then in response Amy 9 Buono writes back on January 14th: Hi, 10 Tricia. Staff does not customarily meet 11 in person with examinees. Standard 12 practice is for communications to take 13 place by phone or in writing. Also, I'm 14 unsure of what else there is to discuss 15 about Mathew's situation or how 16 discussing it in person would affect the 17 outcome. 18 I'm sorry, but if there's 19 new information Mathew would like to 20 present for consideration it should be 21 done in writing. I regret I could not 22 respond positively to your request. Best 23 regards, Amy. 24 A. Correct.</p>
<p>1 Q. And she also came with you 2 today, right? 3 A. Yes. She's somewhere around 4 here. 5 Q. And in these e-mails, let's 6 go to the back first. Actually, second 7 to the last page. You write on December 8 13th, 2012: Hello, Amy. Please take 9 this e-mail as an authorization for you 10 to speak with Salvatrice Scerbo, in 11 parentheses, Tricia, regarding all 12 matters related to my USMLE exams and 13 ECFMG certification. 14 You give your ID number and 15 then you write: This e-mail also 16 authorizes Tricia to speak to anyone at 17 NBME/USMLE regarding my information and 18 exam history as she sees fit for her to 19 assist me in trying to appeal my exam 20 status. 21 Is that right? 22 A. That's correct. 23 Q. On January 14th, 2013 Ms. 24 Scerbo writes -- and this is on the first</p>	<p>1 Q. Were those e-mails shared 2 with you? 3 A. It was not shared with me. 4 I was just told. 5 Q. Let's go to 54. This is an 6 e-mail from Amy Buono to Ms. Scerbo and 7 to you. Is that right? 8 A. Yes. 9 Q. And the last paragraph on 10 Amy Buono's e-mail says: After a 11 thorough review of our records and your 12 appeal documentation dated December 19th, 13 2012, senior staff have determined that 14 there are insufficient grounds for a 15 reconsideration of your case. 16 Is that right? 17 A. That's correct. 18 Q. Let's go to 55. February 19 8th, 2013. The subject is legal 20 representation, and it's from you to Amy 21 Buono. You write: Amy, this e-mail is 22 to certify that Rebecca A. Robichaud -- 23 and that's R-O-B-I-C-H-A-U-D -- is 24 authorized to speak on my behalf, and you</p>